2021-22 SESSION

SENATE
THIRD READING PACKET

MONDAY, AUGUST 29, 2022

JONAS AUSTIN
Director

OFFICE OF SENATE FLOOR ANALYSES
651-1520

SENATE THIRD READING PACKET

Attached are analyses of bills on the Daily File for Monday, August 29, 2022.

Note	Measure	Author	Location
	SB 34	Umberg	Unfinished Business
	SB 70	Rubio	Unfinished Business
RA	SB 233	Umberg	Unfinished Business
	SB 284	Stern	Unfinished Business
	SB 291	Stern	Unfinished Business
	SB 396	Bradford	Unfinished Business
	SB 450	Hertzberg	Unfinished Business
	SB 532	Caballero	Unfinished Business
	SB 543	Limón	Unfinished Business
	SB 616	Rubio	Unfinished Business
	SB 679	Kamlager	Unfinished Business
+	SB 755	Roth	Unfinished Business
+	SB 793	Wiener	Unfinished Business
	SB 837	Umberg	Unfinished Business
+	SB 848	Umberg	Unfinished Business
	SB 867	Laird	Unfinished Business
	SB 887	Becker	Unfinished Business
	SB 892	Hurtado	Unfinished Business
	SB 901	Pan	Unfinished Business
	SB 931	Leyva	Unfinished Business
	SB 941	Portantino	Unfinished Business
	SB 950	Archuleta	Unfinished Business
	SB 972	Gonzalez	Unfinished Business
	SB 1016	Portantino	Unfinished Business
	SB 1029	Hurtado	Unfinished Business
	SB 1055	Kamlager	Unfinished Business
	SB 1056	Umberg	Unfinished Business
	SB 1066	Hurtado	Unfinished Business
	SB 1079	Portantino	Unfinished Business
	SB 1081	Rubio	Unfinished Business
	SB 1084	Hurtado	Unfinished Business
+	SB 1085	Kamlager	Unfinished Business
	SB 1090	Hurtado	Unfinished Business
	SB 1093	Hurtado	Unfinished Business
	SB 1112	Becker	Unfinished Business
	SB 1122	Allen	Unfinished Business
	SB 1131	Newman	Unfinished Business
	SB 1139	Kamlager	Unfinished Business
	SB 1141	Limón	Unfinished Business
	SB 1143	Roth	Unfinished Business
	SB 1193	Newman	Unfinished Business
	SB 1202	Limón	Unfinished Business
	SB 1203	Becker	Unfinished Business
	SB 1215	Newman	Unfinished Business
	SB 1228	Wiener	Unfinished Business
	SB 1242	Committee on Insurance	Unfinished Business

\+ ADDS
RA Revised Analysis
* Analysis pending

Note	Measure	Author	Location
	SB 1246	Stern	Unfinished Business
	SB 1247	Hueso	Unfinished Business
	SB 1252	Committee on Housing	Unfinished Business
+	SB 1255	Portantino	Unfinished Business
	SB 1271	Wilk	Unfinished Business
	SB 1279	Ochoa Bogh	Unfinished Business
	SB 1291	Archuleta	Unfinished Business
+	SB 1313	Hertzberg	Unfinished Business
	SB 1342	Bates	Unfinished Business
	SB 1360	Umberg	Unfinished Business
RA	SB 1364	Durazo	Unfinished Business
	SB 1398	Gonzalez	Unfinished Business
	SB 1407	Becker	Unfinished Business
+	SB 1415	Limón	Unfinished Business
	SB 1434	Roth	Unfinished Business
	SB 1436	Roth	Unfinished Business
	SB 1438	Roth	Unfinished Business
	SB 1472	Stern	Unfinished Business
	SB 1487	Rubio	Unfinished Business
	SB 1489	Committee on Governance and Finance	Unfinished Business
	SB 1494	Committee on Governance and Finance	Unfinished Business
	SB 1498	Committee on Banking and Financial Institutions	Unfinished Business
	SCR 61	Dahle	Unfinished Business
	SCR 70	Caballero	Unfinished Business
	SCR 97	Nielsen	Unfinished Business
	SCR 120	Ochoa Bogh	Senate Bills - Third Reading File
	SCR 121	Hurtado	Senate Bills - Third Reading File
	SJR 5	Wilk	Unfinished Business
	SR 97	Caballero	Senate Bills - Third Reading File
	AB 22	McCarty	Assembly Bills - Third Reading File
+	AB 32	Aguiar-Curry	Assembly Bills - Third Reading File
RA	AB 92	Reyes	Assembly Bills - Third Reading File
	AB 99	Irwin	Assembly Bills - Third Reading File
	AB 102	Holden	Assembly Bills - Third Reading File
+	AB 256	Kalra	Assembly Bills - Third Reading File
RA	AB 257	Holden	Assembly Bills - Third Reading File
	AB 267	Valladares	Assembly Bills - Third Reading File
+	AB 305	Maienschein	Assembly Bills - Third Reading File
	AB 321	Valladares	Assembly Bills - Third Reading File
RA	AB 351	Cristina Garcia	Assembly Bills - Third Reading File
	AB 498	Quirk-Silva	Assembly Bills - Third Reading File
RA	AB 499	Blanca Rubio	Assembly Bills - Third Reading File
	AB 503	Stone	Assembly Bills - Third Reading File
	AB 512	Holden	Assembly Bills - Third Reading File
	AB 547	McCarty	Assembly Bills - Third Reading File
	AB 551	Rodriguez	Assembly Bills - Third Reading File
+	AB 558	Nazarian	Assembly Bills - Third Reading File
+	AB 587	Gabriel	Assembly Bills - Third Reading File

+ ADDS
RA Revised Analysis
* Analysis pending

Note	Measure	Author	Location
RA	AB 661	Bennett	Assembly Bills - Third Reading File
+	AB 682	Bloom	Assembly Bills - Third Reading File
+	AB 719	Committee on Agriculture	Assembly Bills - Third Reading File
	AB 738	Nguyen	Assembly Bills - Third Reading File
RA	AB 740	McCarty	Assembly Bills - Third Reading File
+	AB 759	McCarty	Assembly Bills - Third Reading File
	AB 775	Berman	Assembly Bills - Third Reading File
+	AB 777	McCarty	Assembly Bills - Third Reading File
+	AB 778	Eduardo Garcia	Assembly Bills - Third Reading File
	AB 847	Quirk	Assembly Bills - Third Reading File
	AB 852	Wood	Assembly Bills - Third Reading File
+	AB 857	Kalra	Assembly Bills - Third Reading File
	AB 858	Jones-Sawyer	Assembly Bills - Third Reading File
	AB 916	Salas	Assembly Bills - Third Reading File
	AB 923	Ramos	Assembly Bills - Third Reading File
	AB 937	Carrillo	Assembly Bills - Third Reading File
RA	AB 984	Wilson	Assembly Bills - Third Reading File
	AB 1014	McCarty	Assembly Bills - Third Reading File
+	AB 1051	Bennett	Assembly Bills - Third Reading File
	AB 1102	Low	Assembly Bills - Third Reading File
RA	AB 1227	Levine	Assembly Bills - Third Reading File
RA	AB 1242	Bauer-Kahan	Assembly Bills - Third Reading File
+	AB 1249	Gallagher	Assembly Bills - Third Reading File
RA	AB 1262	Cunningham	Assembly Bills - Third Reading File
RA	AB 1278	Nazarian	Assembly Bills - Third Reading File
+	AB 1287	Bauer-Kahan	Assembly Bills - Third Reading File
	AB 1288	Quirk-Silva	Assembly Bills - Third Reading File
+	AB 1290	Lee	Assembly Bills - Third Reading File
	AB 1307	Cervantes	Assembly Bills - Third Reading File
RA	AB 1322	Robert Rivas	Assembly Bills - Third Reading File
	AB 1328	Irwin	Assembly Bills - Third Reading File
	AB 1348	McCarty	Assembly Bills - Third Reading File
	AB 1355	Levine	Assembly Bills - Third Reading File
	AB 1369	Bennett	Assembly Bills - Third Reading File
+	AB 1389	Reyes	Assembly Bills - Third Reading File
	AB 1395	Muratsuchi	Assembly Bills - Third Reading File
	AB 1410	Rodriguez	Assembly Bills - Third Reading File
+	AB 1416	Santiago	Assembly Bills - Third Reading File
+	AB 1426	Mathis	Assembly Bills - Third Reading File
+	AB 1445	Levine	Assembly Bills - Third Reading File
	AB 1467	Cervantes	Assembly Bills - Third Reading File
	AB 1577	Stone	Assembly Bills - Third Reading File
RA	AB 1601	Akilah Weber	Assembly Bills - Third Reading File
	AB 1608	Gipson	Assembly Bills - Third Reading File
	AB 1631	Cervantes	Assembly Bills - Third Reading File
+	AB 1654	Robert Rivas	Assembly Bills - Third Reading File
	AB 1655	Jones-Sawyer	Assembly Bills - Third Reading File
	AB 1656	Aguiar-Curry	Assembly Bills - Third Reading File
	AB 1663	Maienschein	Assembly Bills - Third Reading File
RA	AB 1667	Cooper	Assembly Bills - Third Reading File

+ ADDS
RA Revised Analysis
* Analysis pending

Note	Measure	Author	Location
RA	AB 1685	Bryan	Assembly Bills - Third Reading File
	AB 1691	Medina	Assembly Bills - Third Reading File
+	AB 1695	Santiago	Assembly Bills - Third Reading File
	AB 1700	Maienschein	Assembly Bills - Third Reading File
	AB 1704	Chen	Assembly Bills - Third Reading File
	AB 1713	Boerner Horvath	Assembly Bills - Third Reading File
	AB 1715	Muratsuchi	Assembly Bills - Third Reading File
+	AB 1717	Aguiar-Curry	Assembly Bills - Third Reading File
	AB 1719	Ward	Assembly Bills - Third Reading File
	AB 1720	Holden	Assembly Bills - Third Reading File
	AB 1735	Bryan	Assembly Bills - Third Reading File
+	AB 1740	Muratsuchi	Assembly Bills - Third Reading File
	AB 1743	McKinnor	Assembly Bills - Third Reading File
RA	AB 1749	Cristina Garcia	Assembly Bills - Third Reading File
RA	AB 1751	Daly	Assembly Bills - Third Reading File
+	AB 1766	Stone	Assembly Bills - Third Reading File
+	AB 1788	Cunningham	Assembly Bills - Third Reading File
RA	AB 1794	Gipson	Assembly Bills - Third Reading File
	AB 1797	Akilah Weber	Assembly Bills - Third Reading File
+	AB 1800	Low	Assembly Bills - Third Reading File
	AB 1803	Jones-Sawyer	Assembly Bills - Third Reading File
RA	AB 1809	Aguiar-Curry	Assembly Bills - Third Reading File
	AB 1816	Bryan	Assembly Bills - Third Reading File
+	AB 1817	Ting	Assembly Bills - Third Reading File
	AB 1820	Arambula	Assembly Bills - Third Reading File
+	AB 1823	Bryan	Assembly Bills - Third Reading File
	AB 1837	Mia Bonta	Assembly Bills - Third Reading File
	AB 1851	Robert Rivas	Assembly Bills - Third Reading File
	AB 1856	Medina	Assembly Bills - Third Reading File
	AB 1857	Cristina Garcia	Assembly Bills - Third Reading File
	AB 1860	Ward	Assembly Bills - Third Reading File
RA	AB 1881	Santiago	Assembly Bills - Third Reading File
+	AB 1885	Kalra	Assembly Bills - Third Reading File
+	AB 1886	Cooper	Assembly Bills - Third Reading File
+	AB 1894	Luz Rivas	Assembly Bills - Third Reading File
+	AB 1896	Quirk	Assembly Bills - Third Reading File
	AB 1938	Friedman	Assembly Bills - Third Reading File
RA	AB 1942	Muratsuchi	Assembly Bills - Third Reading File
	AB 1949	Low	Assembly Bills - Third Reading File
	AB 1965	Wicks	Assembly Bills - Third Reading File
	AB 1973	McCarty	Assembly Bills - Third Reading File
	AB 1982	Santiago	Assembly Bills - Third Reading File
+	AB 1998	Smith	Assembly Bills - Third Reading File
RA	AB 2011	Wicks	Assembly Bills - Third Reading File
	AB 2030	Arambula	Assembly Bills - Third Reading File
	AB 2046	Medina	Assembly Bills - Third Reading File
	AB 2056	Grayson	Assembly Bills - Third Reading File
RA	AB 2057	Carrillo	Assembly Bills - Third Reading File
RA	AB 2061	Ting	Assembly Bills - Third Reading File
+	AB 2091	Mia Bonta	Assembly Bills - Third Reading File

+ ADDS
RA Revised Analysis
* Analysis pending

Note	Measure	Author	Location
+	AB 2094	Robert Rivas	Assembly Bills - Third Reading File
+	AB 2097	Friedman	Assembly Bills - Third Reading File
	AB 2098	Low	Assembly Bills - Third Reading File
+	AB 2106	Robert Rivas	Assembly Bills - Third Reading File
	AB 2107	Flora	Assembly Bills - Third Reading File
RA	AB 2108	Robert Rivas	Assembly Bills - Third Reading File
RA	AB 2117	Gipson	Assembly Bills - Third Reading File
+	AB 2134	Akilah Weber	Assembly Bills - Third Reading File
RA	AB 2143	Carrillo	Assembly Bills - Third Reading File
RA	AB 2146	Bauer-Kahan	Assembly Bills - Third Reading File
	AB 2183	Stone	Assembly Bills - Third Reading File
RA	AB 2188	Quirk	Assembly Bills - Third Reading File
RA	AB 2199	Wicks	Assembly Bills - Third Reading File
	AB 2201	Bennett	Assembly Bills - Third Reading File
	AB 2204	Boerner Horvath	Assembly Bills - Third Reading File
	AB 2206	Lee	Assembly Bills - Third Reading File
	AB 2210	Quirk	Assembly Bills - Third Reading File
+	AB 2221	Quirk-Silva	Assembly Bills - Third Reading File
RA	AB 2223	Wicks	Assembly Bills - Third Reading File
RA	AB 2230	Gipson	Assembly Bills - Third Reading File
	AB 2232	McCarty	Assembly Bills - Third Reading File
RA	AB 2233	Quirk-Silva	Assembly Bills - Third Reading File
RA	AB 2236	Low	Assembly Bills - Third Reading File
+	AB 2238	Luz Rivas	Assembly Bills - Third Reading File
RA	AB 2242	Santiago	Assembly Bills - Third Reading File
RA	AB 2243	Eduardo Garcia	Assembly Bills - Third Reading File
RA	AB 2247	Bloom	Assembly Bills - Third Reading File
	AB 2248	Eduardo Garcia	Assembly Bills - Third Reading File
RA	AB 2268	Gray	Assembly Bills - Third Reading File
	AB 2269	Grayson	Assembly Bills - Third Reading File
	AB 2273	Wicks	Assembly Bills - Third Reading File
RA	AB 2275	Wood	Assembly Bills - Third Reading File
	AB 2294	Jones-Sawyer	Assembly Bills - Third Reading File
RA	AB 2295	Bloom	Assembly Bills - Third Reading File
	AB 2296	Jones-Sawyer	Assembly Bills - Third Reading File
RA	AB 2298	Mayes	Assembly Bills - Third Reading File
	AB 2306	Cooley	Assembly Bills - Third Reading File
	AB 2309	Friedman	Assembly Bills - Third Reading File
+	AB 2316	Ward	Assembly Bills - Third Reading File
	AB 2319	Mia Bonta	Assembly Bills - Third Reading File
RA	AB 2329	Carrillo	Assembly Bills - Third Reading File
+	AB 2334	Wicks	Assembly Bills - Third Reading File
RA	AB 2339	Bloom	Assembly Bills - Third Reading File
RA	AB 2343	Akilah Weber	Assembly Bills - Third Reading File
+	AB 2344	Friedman	Assembly Bills - Third Reading File
+	AB 2352	Nazarian	Assembly Bills - Third Reading File
	AB 2369	Salas	Assembly Bills - Third Reading File
	AB 2382	Lee	Assembly Bills - Third Reading File
	AB 2402	Blanca Rubio	Assembly Bills - Third Reading File
+	AB 2417	Ting	Assembly Bills - Third Reading File

+ ADDS
RA Revised Analysis
* Analysis pending

Note	Measure	Author	Location
RA	AB 2418	Kalra	Assembly Bills - Third Reading File
RA	AB 2438	Friedman	Assembly Bills - Third Reading File
RA	AB 2440	Irwin	Assembly Bills - Third Reading File
	AB 2442	Robert Rivas	Assembly Bills - Third Reading File
+	AB 2443	Cooley	Assembly Bills - Third Reading File
+	AB 2448	Ting	Assembly Bills - Third Reading File
	AB 2459	Cervantes	Assembly Bills - Third Reading File
	AB 2480	Arambula	Assembly Bills - Third Reading File
	AB 2487	Gray	Assembly Bills - Third Reading File
	AB 2493	Chen	Assembly Bills - Third Reading File
	AB 2494	Salas	Assembly Bills - Third Reading File
+	AB 2496	Petrie-Norris	Assembly Bills - Third Reading File
	AB 2509	Fong	Assembly Bills - Third Reading File
	AB 2510	Wilson	Assembly Bills - Third Reading File
	AB 2516	Aguiar-Curry	Assembly Bills - Third Reading File
RA	AB 2517	Mia Bonta	Assembly Bills - Third Reading File
+	AB 2524	Kalra	Assembly Bills - Third Reading File
RA	AB 2556	O'Donnell	Assembly Bills - Third Reading File
	AB 2574	Salas	Assembly Bills - Third Reading File
+	AB 2586	Cristina Garcia	Assembly Bills - Third Reading File
	AB 2594	Ting	Assembly Bills - Third Reading File
RA	AB 2596	Low	Assembly Bills - Third Reading File
	AB 2598	Akilah Weber	Assembly Bills - Third Reading File
+	AB 2604	Calderon	Assembly Bills - Third Reading File
+	AB 2626	Calderon	Assembly Bills - Third Reading File
	AB 2632	Holden	Assembly Bills - Third Reading File
+	AB 2644	Holden	Assembly Bills - Third Reading File
RA	AB 2653	Santiago	Assembly Bills - Third Reading File
	AB 2655	Blanca Rubio	Assembly Bills - Third Reading File
+	AB 2667	Friedman	Assembly Bills - Third Reading File
RA	AB 2668	Grayson	Assembly Bills - Third Reading File
	AB 2673	Irwin	Assembly Bills - Third Reading File
	AB 2677	Gabriel	Assembly Bills - Third Reading File
RA	AB 2684	Berman	Assembly Bills - Third Reading File
+	AB 2686	Berman	Assembly Bills - Third Reading File
RA	AB 2693	Reyes	Assembly Bills - Third Reading File
RA	AB 2697	Aguiar-Curry	Assembly Bills - Third Reading File
	AB 2700	McCarty	Assembly Bills - Third Reading File
+	AB 2711	Calderon	Assembly Bills - Third Reading File
	AB 2736	Santiago	Assembly Bills - Third Reading File
	AB 2746	Friedman	Assembly Bills - Third Reading File
+	AB 2761	McCarty	Assembly Bills - Third Reading File
	AB 2773	Holden	Assembly Bills - Third Reading File
	AB 2774	Akilah Weber	Assembly Bills - Third Reading File
	AB 2775	Quirk-Silva	Assembly Bills - Third Reading File
	AB 2778	McCarty	Assembly Bills - Third Reading File
	AB 2780	Arambula	Assembly Bills - Third Reading File
RA	AB 2784	Ting	Assembly Bills - Third Reading File
RA	AB 2791	Bloom	Assembly Bills - Third Reading File
+	AB 2798	Fong	Assembly Bills - Third Reading File

+ ADDS
RA Revised Analysis
* Analysis pending

Note	Measure	Author	Location
RA	AB 2806	Blanca Rubio	Assembly Bills - Third Reading File
	AB 2841	Low	Assembly Bills - Third Reading File
	AB 2849	Mia Bonta	Assembly Bills - Third Reading File
RA	AB 2877	Eduardo Garcia	Assembly Bills - Third Reading File
+	AB 2879	Low	Assembly Bills - Third Reading File
	AB 2895	Arambula	Assembly Bills - Third Reading File
RA	AB 2910	Santiago	Assembly Bills - Third Reading File
RA	AB 2912	Berman	Assembly Bills - Third Reading File
RA	AB 2921	Santiago	Assembly Bills - Third Reading File
+	AB 2925	Cooper	Assembly Bills - Third Reading File
	AB 2956	Committee on Transportation	Assembly Bills - Third Reading File
+	AB 2960	Committee on Judiciary	Assembly Bills - Third Reading File
	AB 2964	Committee on Agriculture	Assembly Bills - Third Reading File
+	AB 2971	Committee on Governmental Organization	Assembly Bills - Third Reading File
+	AB 2972	Committee on Jobs, Economic Development, and the Economy	Assembly Bills - Third Reading File
	AB 2974	Committee on Jobs, Economic Development, and the Economy	Assembly Bills - Third Reading File
	ACA 3	Kamlager	Assembly Bills - Third Reading File
	AJR 22	Gabriel	Assembly Bills - Third Reading File

+ ADDS
RA Revised Analysis
* Analysis pending

Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SB 34
Author: Umberg (D), et al.
Amended: 8/8/22
Vote: 21

PRIOR VOTES NOT RELEVANT

SENATE GOVERNMENTAL ORG. COMMITTEE: 10-0, 8/17/22
AYES: Dodd, Allen, Archuleta, Becker, Bradford, Glazer, Jones, Portantino, Rubio, Wilk
NO VOTE RECORDED: Nielsen, Borgeas, Hueso, Kamlager, Melendez

ASSEMBLY FLOOR: 74-0, 8/15/22 - See last page for vote

SUBJECT: Public contracts: authorized agent: limitations

SOURCE: Author

DIGEST: This bill clarifies that a contract that was entered into because of an act that would constitute a violation of a state or federal crime relating to bribery of a public official is voidable.

Assembly Amendments deleted the prior language in the bill and instead clarify that a contract that was entered into because of an act that would constitute a violation of a state or federal crime relating to bribery of a public official is voidable.

ANALYSIS:

Existing law:

1) Governs the bidding and awarding of public contracts by public entities and generally requires that public contracts be awarded through a competitive bid process.

2) Requires, generally, state agencies, for non-IT (information technology) goods and services contracts, to secure at least three competitive bids or proposals for each contract. Three competitive bids or proposals are not required in, among other cases, the following:

   a) In cases of emergency where a contract is necessary for the immediate preservation of the public health, welfare, or safety, or protection of state property.
   b) When the state agency awarding the contract has solicited all potential contractors but has received less than three bids or proposals.
   c) When the state agency and the Department of General Services (DGS) agree that an article of a specified brand or trade name is the only article that will properly meet the needs of the state agency.

3) Requires DGS to prescribe the conditions under which a contract may be awarded without competition, and the methods and criteria which shall be used in determining the reasonableness of contract costs when a contract is awarded without competition.

4) Prohibits, under Government Code Section 1090, members of the Legislature, state, county, district, judicial district, and city officers from having a financial interest in any contract made by them in their official capacity, or by any board of which they are members.

5) Provides, under Penal Code Section 68, that every executive or ministerial officer, employee, or appointee of the State of California, a county or city, or a political subdivision thereof, who asks, receives, or agrees to receive, any bribe is punishable by imprisonment in state prison, as specified, and can be fined, as specified. Penal Code Section 68 also provides that an individual must forfeit his or her office, employment, or appointment, and is forever qualified form holding any office, employment, or appointment in this state.

6) Provides, under Penal Code Section 86, that every member of either house of the Legislature, or any member of the legislative body or a city, county, school district, or other special district who asks, receives or agrees to receive any bribe is punishable by imprisonment in state prison, as specified, can be fined, as specified.

This bill:

1) Declares that a contract that was entered into because of an act that would constitute a violation of a state or federal crime relating to bribery of a public official, including, but not limited to, a violation of Section 68 or 86 of the Penal Code is voidable.

2) Provides that the provisions of this bill apply to contracts executed on or after January 1, 2023, including contracts negotiated prior to January 1, 2023.

Background

Purpose of the Bill. According to the author's office, "SB 34 comes as a response to recent political and legal malfeasance. In May of 2022, the mayor of Anaheim, Harry Sidhu, announced he would be stepping down from public office, having been accused by the FBI solicitation, bribery, and obstruction of justice. The majority of the accusations have been centered on the city's plan to sell public land to the Los Angeles Angels. Investigators have alleged that the mayor of Anaheim hoped to solicit $1 million on campaign contributions from the Angels in exchange for assistance in the deal."

The author's office further argues that, "current law governs bidding and awarding of public contracts by public entities. Existing law also makes it a crime for a public official to ask, receive, or agree to receive, any bribe, upon an understanding that their judgement, or action will be influenced. SB 34 declares a contract voidable if it was entered into while committing the above crime. It is my hope that SB 34 is one small step towards restoring the trust and faith of Anaheim residents in their public officials."

Penal Code Section 68. Penal Code Section 68 provides that every executive or ministerial officer, employee, or appointee of the State of California, a county or city, or a political subdivision thereof, who asks, receives, or agrees to receive, any bribe is punishable by imprisonment in state prison. For cases in which no bribe was actually received, current law provides that such a crime is punishable by imprisonment in state prison, for two, three, or four years, and by a restitution fine of at least $2,000 and no more than $10,000. In cases in which a bribe was actually received, penalties are increased to at least the actual amount of the bribe or $2,000, whichever is greater, or any large amount of not more than double the amount of the bribe or $10,000, whichever is greater. Penal Code Section 68 also provides that that an individual who violates this section shall forfeit his or her

office, employment, or appointment, and is forever disqualified from holding any office, employment, or appointment, in this state.

This bill declares a contract voidable that was entered into because of an act that would constitute a violation of a state or federal crime relating to bribery of a public official, including a violation of Penal Code Section 68.

Penal Code Section 86. Penal Code Section 86 provides that every member of either house of the Legislature, or any member of the legislative body of a city, county, school district, or other special district who asks, receives, or agrees to receive any bribe is punishable by imprisonment in state prison. In cases in which no bribe was actually received, for two, three, or four years, and by a restitution fine of at least $4,000 and no more than $20,000. In cases in which a bribe was actually received, penalties are increased to at least the actual amount of the bribe or $4,000, whichever is greater, or any large amount of not more than double the amount of the bribe or $20,000, whichever is greater.

This bill declares a contract voidable that was entered into because of an act that would constitute a violation of a state or federal crime relating to bribery of a public official, including a violation of Penal Code Section 68.

Related/Prior Legislation

AB 1666 (Garcia, Chapter 811, Statutes of 2014) doubled the restitution fines for a member of the Legislature or any member of a local government legislative body who asks for or receives a bribe in exchange for influence over his-her official action, as specified.

AB 1692 (Garcia, Chapter 884, Statutes of 2014) limited the use of campaign funds and legal defense funds to pay fines and penalties that are imposed for an improper personal use of campaign funds.

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

According to the Assembly Appropriations Committee. No state costs. DGS explains that any contract entered into because of a violation of Penal Code 68 or 86, relating to bribery of a state or local public official, likely violates Government Code Section 1090, which prohibits a state or local officer or employee from being financially interested in a contract. A bribe, kickback or other expectation of financial reward likely constitutes a prohibited financial interest. Existing case law

holds that a Section 1090 violation not just renders a contract voidable, but automatically void. Thus, DGS does not anticipate any fiscal effect from this bill.

SUPPORT: (Verified 8/16/22)

None received

OPPOSITION: (Verified 8/16/22)

None received

ASSEMBLY FLOOR: 74-0, 8/15/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Chen, Choi, Flora, Gray, Haney, Voepel

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
8/17/22 17:42:04

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

Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SB 70
Author: Rubio (D), et al.
Amended: 8/15/22
Vote: 21

SENATE EDUCATION COMMITTEE: 5-2, 3/17/21
AYES: Leyva, Cortese, Glazer, McGuire, Pan
NOES: Ochoa Bogh, Dahle

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

SENATE FLOOR: 32-5, 1/26/22
AYES: Allen, Archuleta, Atkins, Becker, Borgeas, Bradford, Caballero, Cortese, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NOES: Grove, Jones, Melendez, Nielsen, Ochoa Bogh
NO VOTE RECORDED: Bates, Dahle, Dodd

ASSEMBLY FLOOR: 59-12, 8/18/22 - See last page for vote

SUBJECT: Elementary education: kindergarten

SOURCE: Los Angeles Unified School District

DIGEST: This bill requires, beginning with the 2024-25 school year, a student to have completed one year of kindergarten before being admitted to the first grade of a public school. Therefore, this bill expands compulsory education to include kindergarten.

Assembly Amendments (a) delay the implementation date by two years, from the 2022-23 school year to the 2024-25 school year; (b) specifically apply this bill to

charter schools; and (c) clarify that transitional kindergarten does not count towards the requirement to complete a year of kindergarten.

ANALYSIS:

Existing law:

1) Requires every person between the ages of six and 18 years to attend school full-time (at least the minimum school day as required by statute and school districts). (Education Code § 48200)

2) Requires a student to be admitted to kindergarten if the student will have their fifth birthday on or before September 1. (EC § 48000)

3) Authorizes school districts to admit to kindergarten, on a case-by-case basis, a student who will have their fifth birthday during the school year, subject to the following conditions:

   a) The governing board of the school district determines that the admittance is in the best interest of the student.

   b) The parent is given information regarding the advantages and disadvantages and any other explanatory information about the effect of this early admittance. (EC § 48000)

4) Requires a student to be admitted to the first grade if the student will have their sixth birthday on or before September 1. (EC § 48010)

This bill:

1) Requires, beginning with the 2024-25 school year, a student to have completed one year of kindergarten before being admitted to the first grade of a public elementary school (including a charter school).

2) Clarifies that a student is to be admitted to the first grade if the student has their sixth birthday on or before September 1 *and* that the student has completed one year of kindergarten.

3) Clarifies that the exiting authority for a kindergarten student to be placed in first grade if judged ready for first grade work applies to a student who has not completed one school year of kindergarten.

4) Extends to charter school governing bodies the existing authority for a school district governing board to admit a student of a proper age to a class after the first month of a school term.

5) States legislative intent that a parent or legal guardian of a pupil eligible for kindergarten maintain the discretion to enroll the pupil in either public school kindergarten or private school kindergarten, which includes home schooling, before enrolling the pupil in the first grade of a public elementary school.

6) States legislative findings and declarations relative to the benefits of kindergarten.

Comments

Need for the bill. According to the author, "… since kindergarten is not mandatory, students that do not attend miss fundamental instruction putting them at a disadvantage in a classroom setting as they enter first grade. This current voluntary participation of kindergarten allows parents to delay their child's entrance into school until the first grade, which leaves students unprepared for the educational environment they will encounter in elementary school. According to the National Education Association, research has shown that kindergartners who miss 10% or more school days have lower academic performance when they reach the first grade. The impact is even greater and more detrimental for students who do not attend kindergarten at all and miss a whole academic school year. In addition, concerns are rising about the opportunity gap being heightened by school closures during the COVID-19 pandemic. "Moreover, school districts across the state are also experiencing drops in student enrollment. According to a Cal Matters article, the COVID-19 pandemic has led to a record one-year enrollment drop of 155,000 students in California's K-12 public schools, according to new state projections. At the Los Angeles Unified School District, kindergarten enrollment for the 2020-21 academic year has dropped by 14 percent (a decline of 6,000 students). This decline is even more prevalent in the school system's lowest-income neighborhoods, and is about three times as large as in recent years. "Statistics show that now more than ever, kindergarten attendance is necessary to ensure all students receive critical early instruction to help avoid falling behind. Requiring kindergarten attendance will ensure students are well prepared, set them on track to learn at grade-level pace, and help avoid students fall behind. Kindergarten attendance is also an important aspect in reducing chronic absenteeism and closing the achievement gap."

How many students currently attend kindergarten? Kindergarten is considered a grade level, is factored in the calculation of average daily attendance and is

included in the academic content standards, curricular frameworks and instructional materials. However, attendance in kindergarten is not mandatory and compulsory education laws begin at age six. The California Department of Education (CDE) estimates that, pre-COVID, approximately 95% of eligible students attended kindergarten (public and private kindergarten) and approximately 80% of eligible students attended kindergarten at a public school.

According to data collected through the California Longitudinal Pupil Achievement Data System and released by the California Department of Education in April 2021, enrollment in K-12 public schools has declined by approximately 160,500 students. This data shows a decline in enrollment in kindergarten of almost 61,000 students. It is unclear if these students were enrolled in private kindergarten or attended any educational program.

Will all five-year olds be required to attend kindergarten? No. This bill expands compulsory education laws to require attendance at kindergarten, but does not preclude five-year-olds from attending transitional kindergarten or preclude six-year-olds from attending kindergarten.

Where are five-year olds if not already in kindergarten? Children who are too young to be admitted to, or whose parents choose not to enroll their child in, kindergarten may currently be served by other types of early education or care programs, such as transitional kindergarten or general child care programs. Those programs differ from kindergarten in which curriculum is offered, staffing ratios, length of program, and other important elements that parents may consider when choosing early education for their children. Currently, attendance in kindergarten is not mandatory; this bill makes kindergarten attendance mandatory. The enrollment of additional students into kindergarten could affect other programs that may currently be serving these children (not an issue if the children are currently enrolled in transitional kindergarten).

Public or private school. This bill does not require students to attend kindergarten at a public school; parents would retain the option to enroll their five- or six-year old in kindergarten at a private school.

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

According to the Assembly Appropriations Committee:

1) Unknown Proposition 98 General Fund costs, beginning in the 2024-25 school year, for increased per student funding to attend kindergarten, potentially in

low-hundreds-of-millions of dollars annually. This assumes about 30,000 more children enroll in public kindergarten as a result of this bill.

2) In addition, local educational agencies may experience other increases in local costs as a result of this measure, such as increased facility costs to accommodate additional students.

SUPPORT: (Verified 8/18/22)

Los Angeles Unified School District (source)
Alhambra Unified School District
American Association of University Women California
Baldwin Park Unified School District
California Association for Bilingual Education
California Charter School Association
California Kindergarten Association
California Latino School Boards Association
California School Employees Association
California State PTA
California Teachers Association
Californians Together
Central City Association
Charter Oak Unified School District
Child 360
Communities in Schools, Los Angeles
Covina-Valley Unified School District
Early Edge California
El Monte City School District
Families in Schools
First 5 California
Fresno Unified School District
Garvey School District
Hacienda La Puente Unified School District
Los Angeles Area Chamber of Commerce
Montebello Unified School District
Mountain View School District
Parent Engagement Academy
Rosemead School District
San Diego Unified School District
Temple City Unified School District
UNITE-LA

West Covina Unified School District

OPPOSITION: (Verified 8/18/22)

California Homeschool Network

ASSEMBLY FLOOR: 59-12, 8/18/22
AYES: Aguiar-Curry, Alvarez, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cooley, Cooper, Cunningham, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Rendon
NOES: Bigelow, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Mathis, Seyarto, Smith, Valladares, Voepel
NO VOTE RECORDED: Arambula, Cervantes, Chen, Choi, Lackey, Nguyen, Patterson, Waldron, Wood

Prepared by: Lynn Lorber / ED. / (916) 651-4105
8/19/22 13:20:30

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

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UNFINISHED BUSINESS

Bill No: SB 233
Author: Umberg (D)
Amended: 6/16/22
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 4/6/21
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

SENATE FLOOR: 38-0, 4/22/21 (Consent)
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Limón, Stern

SENATE JUDICIARY COMMITTEE: 9-0, 8/24/22 (Pursuant to Senate Rules 29.10)
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas, Jones

ASSEMBLY FLOOR: 77-0, 8/18/22 - See last page for vote

SUBJECT: Civil actions: appearance by telephone

SOURCE: Author

DIGEST: This bill repeals provisions specifically related to telephonic appearances in civil proceedings, on the ground that they were made redundant by more recently adopted statutes that more broadly authorize remote appearances.

Assembly Amendments delete the contents of the bill previously passed by the Senate and amend in the current version of the bill.

ANALYSIS:

Existing law:

1) States that courts should, to the extent feasible, permit parties to appear by telephone at appropriate conferences, hearings, and proceedings in civil cases so as to improve court access and reduce litigation costs. (Code Civ. Proc., § 367.5(a).)

2) Provides that in all general cases, as defined in the California Rules of Court, a party that has provided notice may appear by telephone at the following conferences, hearings, or proceedings:

    a) A case management conference, provided that the party has complied with its meet-and-confer obligations and timely filed and served a case management statement.

    b) A trial setting conference.

    c) A hearing on law and motion, except motions in limine.

    d) A hearing on a discovery motion.

    e) A conference to review the status of an arbitration or mediation.

    f) A hearing to review the dismissal of an action.

    g) Any other hearing, conference, or proceeding if the court determines that a telephone appearance is appropriate. (Code Civ. Proc., § 367.5(b).)

3) Provides, notwithstanding 2) above, that a court may require a party to appear in person at a hearing, conference, or proceeding if the court determines on a hearing-by-hearing basis that a personal appearance would materially assist in the determination of the proceedings or in the effective management or resolution of the particular case. (Code Civ. Proc., § 367.5(c).)

4) Requires the Judicial Council to adopt rules of court related to telephonic appearances in civil cases. (Code Civ. Proc., § 367.5(d), (e).)

5) Requires the Judicial Council, on or before July 1, 2011, to establish statewide uniform fees to be paid by a party for appearing by telephone, which supersede any fees paid to vendors and courts under any previously existing agreements and procedures. (Code Civ. Proc., § 367.6(a).)

6) Provides that the uniform fees in 5) must include a fee for providing the telephone appearance service pursuant to a timely request, an additional fee if the request is made shortly before the hearing, and a fee for canceling a telephone appearance request. (Code Civ. Proc., § 367.6(a).)

7) Provides that if a party has received a fee waiver, neither a vendor nor a court may charge that party for any of the fees authorized in 5) or 6), except:

   a) The vendor or court providing the telephonic service has a lien, as provided, on any judgment that the party may receive, in the amount that the party would have paid for the telephonic appearance; and

   b) If a vendor or court later receives the waived fee or a portion thereof, the fee shall be distributed consistent with 12). (Code Civ. Proc., § 367.6(b).)

8) Provides that the telephonic appearance fees described in 5) and 6) are recoverable costs. (Code Civ. Proc., § 367.6(c).)

9) Sets forth a framework for remote appearances—which may include audio or audio-visual remote technology—in civil cases, including civil trials, which is set to sunset on July 1, 2023. (Code Civ. Proc., § 367.75.)

10) Requires the Judicial Council, by July 1, 2011, and periodically thereafter as appropriate, to enter into one or more master agreements with a vendor or vendors to provide for telephone appearances in civil cases. (Gov. Code, § 72010(a).)

11) Requires the master agreement in 9) to include specified terms, including the amount of fees to be paid by a party for a telephonic appearance and a statement that the vendor is required to indemnify and hold the court harmless from claims arising from a failure or interruption of services. (Gov. Code, § 72010(b).)

12) Provides that a court may provide telephonic appearance services to a party only through an agreement with a vendor pursuant to a master agreement under 9), a preexisting agreement, or directly from the court. (Gov. Code, § 72010(c).)

13) Requires a vendor or court that provides telephonic appearances, for each telephonic appearance fee, to transmit $20 to the State Treasury for deposit in the Trial Court Trust Fund; if the vendor or court receives only a portion of the fee in accordance with 7)(b) then the vendor or court need transmit only the proportionate share of the amount. (Gov. Code, § 72011(a).)

14) Requires the amount to be transmitted to the Trial Court Trust Fund in accordance with 12) to be transferred within 15 days. (Gov. Code, § 72011(b).)

15) Requires vendors to transmit revenues for telephonic appearances received during the 2009-2010 fiscal year, and requires Judicial Council to apportion these revenues and allocate them to eligible courts as specified. (Gov. Code, § 72011(c)-(e).)

This bill:

1) Repeals the Code of Civil Procedure sections that authorize the use of telephonic appearances in civil cases.

2) Repeals the Government Code sections providing for the collection and distribution of fees relating to telephonic appearances in civil cases.

Comments

According to the author, with the COVID-19 pandemic impact on courts that caused backlogs in both civil and criminal proceedings, the Judicial Council and courts began to explore new ways to conduct remote appearances. With last year's passage of SB 241, telephonic appearances were incorporated into the broader definitions of remote technology as authorized by Code of Civil Procedure Section 367.75. This inclusion reflects a growing acknowledgement that there is little practical distinction among the various methods to connect to a judicial hearing (e.g. by phone, digital audio and/or digital video). Unfortunately, this inclusion also left the statutes specifically authorizing telephonic appearances in question. SB 233 seeks to repeal these telephonic appearance statutes, thus providing courts with clarity over the use of telephonic appearances as part of the larger remote technology. SB 233 is necessary and ensures that all remote technologies are treated the same.

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

According to the Assembly Appropriations Committee:

- Loss of revenue (Trial Court Trust Fund (TCTF)) of an unknown, but potentially significant amount from fees assessed to appear telephonically. Most of the loss in revenue is likely offset by significant budget funds for court modernization including the continued implementation of remote access pursuant to Code of Civil Procedure section 367.75. However, as explained below, JCC estimates TCTF backfill will cover the loss in revenue, but not the

legacy payments associated with telephonic appearances. JCC reports legacy costs of approximately $950,000. Judicial Council will receive $34.7 million General Fund in 2022-23, increasing to $40.3 million in 2025-26 and ongoing, for information technology initiatives to modernize the Judicial Branch and increase access to justice for the public.

SUPPORT: (Verified 8/24/22)

Courtcall, Inc.
Judicial Council of California

OPPOSITION: (Verified 8/24/22)

None received

ARGUMENTS IN SUPPORT: According to the Judicial Council of California, writing in support:

> The Judicial Council supports SB 233, which repeals the obsolete statutes relating to telephonic appearances. The enactment of [Code of Civil Procedure section] 367.75 on January 1, 2022, established a new framework governing remote appearances in California. Nevertheless, pre-existing statutes related to telephonic appearances remain in the codes, causing unnecessary overlap and confusion.
>
> [Code of Civil Procedure section] 367.5 originally authorized telephonic appearances, but only in certain kinds of civil proceedings. It is more limited than [section] 367.75, which encompasses all civil remote appearances, including telephonic appearances. With the enactment of [section] 367.75, [section] 367.5 is no longer necessary…
>
> Removing these code sections benefits court users, the state, and the courts by properly harmonizing statutory authority over remote appearances under [Code of Civil Procedure] section 367.75 and greatly reducing fees to users wanting to make their appearance telephonically. It also reduces state work and costs by eliminating the now-unnecessary requirement for a [master services agreement] for only a small subset of remote proceedings.

ASSEMBLY FLOOR: 77-0, 8/18/22
AYES: Aguiar-Curry, Alvarez, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson,

Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Rendon

NO VOTE RECORDED: Arambula, Choi, Wood

Prepared by: Allison Meredith / JUD. / (916) 651-4113
8/24/22 22:23:51

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

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UNFINISHED BUSINESS

Bill No: SB 284
Author: Stern (D), et al.
Amended: 8/18/22
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-0, 3/8/21
AYES: Cortese, Durazo, Laird, Newman
NO VOTE RECORDED: Ochoa Bogh

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

SENATE FLOOR: 37-1, 6/2/21
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NOES: Jones
NO VOTE RECORDED: Melendez, Nielsen

ASSEMBLY FLOOR: 71-0, 8/22/22 - See last page for vote

SUBJECT: Workers' compensation: firefighters and peace officers: post-traumatic stress

SOURCE: California Professional Firefighters
California Statewide Law Enforcement Association
Peace Officers Research Association of California

DIGEST: This bill expands an existing industrial injury rebuttable presumption for a diagnosis of a post-traumatic stress disorder (PTSD) to include specified employees at the State Department of State Hospitals, the State Department of

Developmental Services, the Military Department, and the Department of Veterans Affairs. This bill also extends this PTSD rebuttable presumption to public safety dispatchers, public safety telecommunicators, and emergency response communication employees. Lastly, this bill expands on the list of peace officers that can claim the PTSD presumption, as specified.

Assembly Amendments change the injuries covered by the bill to only those occurring on or after January 1, 2023.

ANALYSIS:

Existing law:

1) Establishes a workers' compensation system that provides benefits to an employee who suffers from an injury or illness that arises out of and in the course of employment, irrespective of fault. This system requires all employers to secure payment of benefits by either securing the consent of the Department of Industrial Relations to self-insure or by securing insurance against liability from an insurance company duly authorized by the state.

2) Creates a series of disputable presumptions of an occupational injury for peace and safety officers for the purposes of the workers' compensation system. These presumptions include:

   - Heart disease
   - Hernias
   - Pneumonia
   - Cancer
   - Meningitis
   - Tuberculosis
   - Bio-chemical illness

   The compensation awarded for these injuries must include full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by workers compensation law. These presumptions tend to run for 5 to 10 years commencing on their last day of employment, depending on the injury and the peace officer classification involved. Peace officers whose principal duties are clerical, such as stenographers, telephone operators, and other office workers are excluded. (Labor Code §§3212 to 3213.2)

3) Provides, until January 1, 2025, a disputable presumption that a diagnosis of Post-Traumatic Stress Disorder (PTSD) for specified peace officers and firefighters is an occupational injury, running for up to 5 years. The benefit includes full hospital, surgical, medical treatment, disability indemnity, and death benefits, but only applies to peace officers who have served at least 6 months. (Labor Code §3212.15)

4) Provides that the presumptions listed above are disputable and may be controverted by evidence. However, unless controverted, the Workers' Compensation Appeals Board must find in accordance with the presumption. (Labor Code §§3212 to 3213.2)

This bill:

1) Extends the PTSD presumption described above to firefighters employed by the State Department of State Hospitals, the State Department of Developmental Services, the Military Department, and the Department of Veterans Affairs.

2) Extends the PTSD presumption to public safety dispatchers, public safety telecommunicators, and emergency response communication employees and expands on the list of peace officers that can claim the PTSD presumption, as specified.

3) Defines "public safety dispatcher," "public safety telecommunicator," or "emergency response communication employee" as an individual employed by a public safety agency whose primary responsibility is to receive, process, transmit, or dispatch emergency and nonemergency calls for law enforcement, fire, emergency medical and other public safety services by telephone, radio, or other communication device, and includes an individual who supervises other individuals who perform these functions.

Background

When the legislature is presented with proposals on industrial injury presumptions, advocates will frequently reference the fact that the presumption is rebuttable. This suggests that, if the employer community were to do the appropriate research, they could in fact rebut a specific presumption case, and therefore presumptions are only problematic for public employers who either lack a case or are unwilling to devote the resources to defend themselves.

However, this view does not reflect how the shifting of the burden of proof impacts public employers before the Workers' Compensation Appeals Board (WCAB). For example, in *Sanchez v. State of California, Department of Corrections and Rehabilitation,* 2015 Cal. Wrk. Comp. P.D. LEXIS 482, the injured worker was diagnosed with a left atrial enlargement (LAE) of the heart. WCAB found that:

> "As a physical abnormality of the heart, it is clear that LAE constitutes "heart trouble" which is presumed industrial pursuant to section 3212.2. *Because of that presumption, applicant does not have the burden to prove that it was industrially caused*. Instead, defendant has the burden to prove that it was not industrially caused. As pointed out by defendant, Dr. Markovitz simply could not say one way or the other within reasonable medical probability. In the absence of any other medical evidence, defendant did not meet its burden of proof on this issue, and applicant's LAE was found to be compensable." (Emphasis added.)

According to recent large population study, obesity is the main risk factor for LAE. (*The Aging Process of the Heart: Obesity Is the Main Risk Factor for Left Atrial Enlargement During Aging*, MONICA/KORA Investigators J Am Coll Cardiol, 2009 Nov, 54 (21)) Now, it is certainly possible that this worker was not obese or the worker's obesity was a direct result of his work. Yet, it is worth noting the position this places the employer in: *there is effectively no way that an employer could prove the non-existence of a non-industrial cause.* The employer cannot prove that a worker's obesity is not 100% caused by his or her employment or that a preexisting heart defect was unaffected by work. The result is a presumption that is not rebuttable.

Related/Prior Legislation

SB 542 (Stern, Chapter 390, Statutes of 2019) created the PTSD industrial injury presumption for firefighters and peace officers.

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

According to the Assembly Appropriations Committee:

"By adding four new departments and three new job classifications to the existing rebuttable presumption, this bill would likely increase workers compensation costs for those departments and for other departments and local agencies with employees in the newly added job classifications. For the four departments identified in this bill, costs would likely be at least several hundreds of thousands of dollars

(General Fund). This estimate could be significantly higher once information is available from all of the affected departments.

Although this bill is not keyed by Legislative Counsel as a local mandate, its provisions add new job categories to an existing local agency requirement. If the Commission on State Mandates determines this bill imposes new costs on local agencies, the state might need to reimburse those costs. Earlier this year the Department of Finance provided a preliminary estimate of $5 million to $10 million dollars in cost pressure for local reimbursements (General Fund).

The Department of Insurance anticipates annual implementation costs of $16,700 (Insurance Fund)."

SUPPORT: (Verified 8/22/22)

California Professional Firefighters (co-source)
California Statewide Law Enforcement Association (co-source)
Peace Officers Research Association of California (co-source)
Association of Conservationist Employees
Association of Criminalists for the California Department of Justice
Association of Deputy Commissioners
Association of Motor Carrier Operation Specialists
Association of Motor Vehicle Investigators of California
Association of Special Agents – DOJ
California Alcoholic Beverage Control Agents
California Association of Food and Drug Investigators
California Association of Fraud Investigators
California Association of Law Enforcement Employees
California Association of Regulatory Investigators and Inspectors
California Chapter National Emergency Number Association
California Fish & Game Warden Supervisors and Managers Association
California Fish and Game Wardens Association
California Highway Patrol Public Safety Dispatchers Association
California Labor Federation, AFL-CIO
California Organization of Licensing Registration Examiners
California School Employees Association
California Teamsters Public Affairs Council
Hospital Police Association of California
Los Angeles Professional Peace Officers Association
Riverside Sheriffs' Association
Steinberg Institute

OPPOSITION: (Verified 8/22/22)

Allied Managed Care and Acclamation Insurance Management Services
American Property Casualty Insurance Association
California Association of Joint Powers Authorities
California Coalition on Workers Compensation
California Special Districts Association
California State Association of Counties
City of Beverly Hills
League of California Cities
Public Risk Innovation, Solutions, and Management

ARGUMENTS IN SUPPORT: The California Statewide Law Enforcement Association (CSLEA), a co-sponsor of the bill, argues the following:

"Our officers are called to handle traumatic scenes on a regular basis throughout the course of their careers. This trauma and stress can sometimes lead to physical and emotional illness including failure of usual coping mechanisms, loss of interest in the job or normal life activities, personality changes, loss of ability to function, and physiological disruption in their personal life. Often, these issues are left unresolved because there is no place for an officer to go to seek help without fear of losing his or her job. By adding these mental health issues to the term "injury" under workers' compensation law, California will ensure its workers are being treated for these critical incident stresses related to their job duties."

The California Labor Federation writes in support:

"While it is well documented that firefighters and law enforcement personnel work in jobs with severely heightened levels of stress and regularly exposed to traumatic experiences, they are not the only members of the public safety workforce to do so. Other who work behind the scenes to take the 911 calls are also confronted with horrific events such as shootings, fires, deadly accidents and other serious traumatic experiences. These public safety dispatchers are tasked with calming frightened or injured individuals so that necessary information can be obtained, and these workers frequently remain on the line while emergency services are on the way. Dispatchers experience many of the same traumas as the firefighters and law enforcement officers that they assist, but they do not enjoy the same protections against those hazards.

SB 284 will extend the existing post-traumatic stress workers' compensation presumption to include sworn public safety dispatchers, as well as firefighters and law enforcement personnel employed by a number of additional agencies."

ARGUMENTS IN OPPOSITION: The American Property Casualty Insurance Association, California Coalition of Workers' Compensation, California State Association of Counties, among others, oppose this bill, arguing the following:

"Our members recognize that police officers and firefighters serve our state with distinction in some of the most difficult circumstances imaginable. Our members include some of the largest employers of public safety officers in the state, and we have a healthy respect and admiration for people who choose every day to serve their communities. Fundamentally, we do not believe the SB 284 is necessary to provide California employees with fair access to the workers' compensation system for psychiatric injuries…

[W]hen… SB 542 was adopted by the legislature there was no data or analysis objectively suggesting that California's employer-funded system of no-fault workers' compensation – a system required to be "liberally construed" by judges when a dispute arises – was closing off access to police officers or firefighters seeking care for PTSD. In fact, Assemblymember Tom Daly in his capacity as Chair of the Assembly Insurance Committee penned a letter (attached) to the Executive Director of the Commission on Health and Safety and Workers' Compensation (CHSWC) asking for extensive analysis be completed about this bill.

…We believe strongly that it is premature to consider any kind of further expansion to this legislation prior to the CHSWC analysis being provided to the legislature….SB 284 proposes to expand the PTSD presumption to cover public safety dispatchers, public safety telecommunications, and emergency response communication employees. We are unaware of any objective analysis that would suggest that these job classifications merit the elimination of all statutory claims review procedures that accompany a workers' compensation PTSD presumption."

ASSEMBLY FLOOR: 71-0, 8/22/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Berman, Bigelow, Davies, Gallagher, Cristina Garcia, Gray, Kiley, Levine, Smith

Prepared by: Jake Ferrera / L., P.E. & R. / (916) 651-1556
8/22/22 19:58:56

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

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UNFINISHED BUSINESS

Bill No: SB 291
Author: Stern (D), et al.
Amended: 8/18/22
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 3/10/21
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, McGuire, Pan

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/20/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SENATE FLOOR: 36-0, 1/24/22
AYES: Allen, Archuleta, Atkins, Becker, Borgeas, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Bates, Bradford, Dahle, Min

ASSEMBLY FLOOR: 77-0, 8/22/22 - See last page for vote

SUBJECT: Advisory Commission on Special Education

SOURCE: Author

DIGEST: This bill increases the number of members on the Advisory Commission on Special Education (ACSE), from 17 to 19 members.

Assembly Amendments replace the proposed advisory council of pupils with exceptional needs with two additional members on the ACSE whom must be between the ages of 16 and 22, inclusive, with exceptional needs.

ANALYSIS:

Existing law:

1) Establishes the ACSE as an entity in state government that studies and provides assistance and advice to the State Board of Education (SBE), the Superintendent of Public Instruction (SPI), the Legislature, and the Governor in research, program development, and evaluation in special education.

2) Specifies that the ACSE consist of 17 members as follows:

   a) A Member of the Assembly appointed by the Speaker of the Assembly.

   b) A Member of the Senate appointed by the Senate Committee on Rules.

   c) Three public members appointed by the Speaker of the Assembly, two of whom shall be individuals with a disability or parents of pupils in either a public or private school who have received or are currently receiving special education services due to a disabling condition.

   d) Three public members appointed by the Senate Committee on Rules, two of whom shall be individuals with a disability or parents of pupils in either a public or private school who have received or are currently receiving special education services due to a disabling condition.

   e) Four public members appointed by the Governor, two of whom shall be parents of pupils in either a public or private school who have received or are currently receiving special education services due to a disabling condition.

   f) Five public members appointed by the State Board of Education, upon the recommendation of the Superintendent or the members of the State Board of Education, three of whom shall be parents of pupils in either a public or private school who have received or are currently receiving special education services due to a disabling condition, and one of whom shall be a representative of the charter school community.

3) Requires ACSE members to be selected to ensure the body is representative of the state population, composed of individuals involved in, or concerned with, the education of children with exceptional needs, and include a majority of

members with exceptional needs or parents of children with exceptional needs who are age's birth to 26 years, inclusive.

4) Requires the ACSE to comment publicly on any rules or regulations proposed by the state regarding the education of individuals with exceptional needs and advise the SPI in developing: (a) evaluations and reporting on data to the Secretary of Education in the United States Department of Education, (b) corrective action plans to address findings identified in federal monitoring reports under the Individuals with Disabilities Education Act, and (c) policies relating to the coordination of services for individuals with exceptional needs.

5) Requires the ACSE to report to the SBE, the SPI, the Legislature, and the Governor at least once per year on the following:

   a) Activities enumerated in state law that are necessary to be undertaken regarding special education for individuals with exceptional needs.

   b) The priorities and procedures utilized in the distribution of federal and state funds.

   c) The unmet educational needs of individuals with exceptional needs within the state.

   d) Recommendations relating to providing better education services to individuals with exceptional needs.

This bill:

1) Increases the number of members on the ACSE, from 17 to 19 members.

2) Requires the two additional members be pupils between the ages of 16 and 22, inclusive, with exceptional needs.

3) Requires the pupils to be appointed for one year, with the option to serve a second term of one year.

Comments

1) *Need for the bill.* According to the author, "Representation matters. The California Advisory Commission on Special Education (ACSE) provides

recommendations and advice to the State on new or continuing areas of research, program development and evaluation in California special education.

"However, the people most directly impacted by these policies, students with exceptional needs, have no direct input or representation on the ACSE. This is especially concerning given that approximately one-in-eight California public school students receive special education, yet those same students have no seat at the decision-making table.

"SB 291 will improve California special education by ensuring direct representation and a decision-making role on the California ACSE for current students with exceptional needs. It is also an exciting step that makes California the first state with student voting rights on the ACSE."

2) *Federal law requires the state to maintain a special education advisory panel.* The federal Individuals with Disabilities Education Act (IDEA) makes a free appropriate public education available to eligible children throughout the nation and ensures special education and related services to those who need them. Any state receiving funds authorized through IDEA must establish and maintain an advisory panel to provide policy guidance related to special education and related services for children with disabilities.

   California's ACSE is composed of 17 members who are responsible for providing recommendations and advice to the SBE, the SPI, the Legislature, and the Governor in new or continuing areas of research, program development and evaluation in California special education. The author of this bill notes that while members of the ACSE consist of important stakeholders such as parents of students with exceptional needs, there is no direct role for students themselves this process.

3) *Recent report from the Advisory Commission on Special Education.* In the late summer or early fall of each calendar year, the ACSE releases an Annual Report of the Commission's work over the previous fiscal year. This report provides information on the year's emphasized themes and highlights the items chosen for the agendas of each of the Commission's five yearly meetings.

   The Commission's most recent 2019-20 report highlights, among other things, the unforeseen levels of disruption caused by the novel coronavirus pandemic. In its overview, the report notes the following, which makes a strong case for including more student voice in improving the state's special education system:

"While creating untold challenges of its own, the pandemic has also served to highlight long-existing inequities and weaknesses in the social, educational, and political systems, both statewide and nationally. The commissioners hope that a renewed and acute awareness of these challenges will serve to strengthen the resolve of policymakers and educators everywhere—redoubling prevention and early intervention efforts and fortifying a continued commitment to creating a coherent and aligned educational system that addresses inequitable practices and improves outcomes for students both with and without disabilities."

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

According to the Assembly Appropriations Committee, minor and absorbable General Fund costs to the California Department of Education (CDE) for the addition of two pupil members. Costs include travel and other operational expenses.

SUPPORT: (Verified 8/22/22)

California Association of Student Councils
Coalition for Adequate Funding for Special Education
Decoding Dyslexia CA
Disability Voices United
Diverse Learners Coalition
Eye to Eye
Learning Rights Law Center
SELPA Administrators of California
State Council on Developmental Disabilities
State Independent Living Council
The Arc and United Cerebral Palsy California Collaboration

OPPOSITION: (Verified 8/22/22)

None received

ASSEMBLY FLOOR: 77-0, 8/22/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley,

Lackey, Lee, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Bigelow, Davies, Levine

Prepared by: Ian Johnson / ED. / (916) 651-4105
8/22/22 19:58:58

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

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UNFINISHED BUSINESS

Bill No: SB 396
Author: Bradford (D), et al.
Amended: 6/30/22
Vote: 21

PRIOR VOTES NOT RELEVANT

SENATE ENERGY, U. & C. COMMITTEE: 8-3, 8/16/22 (Pursuant to Senate Rules 29.10)
AYES: Hueso, Dahle, Bradford, Dodd, Eggman, Gonzalez, Grove, Min
NOES: Becker, McGuire, Stern
NO VOTE RECORDED: Borgeas, Hertzberg, Rubio

ASSEMBLY FLOOR: 54-1, 8/1/22 - See last page for vote

SUBJECT: Forestry: electrical transmission or distribution lines: clearances: notice and opportunity to be heard

SOURCE: Pacific Gas and Electric Company

DIGEST: This bill establishes a process for electrical corporations that own electrical transmission and distribution lines to cut, fell, or trim trees on property outside the utility easement where the electrical corporation does not have existing rights or express permission from the landowner.

Assembly Amendments delete the previous contents of this bill regarding fire tool boxes and replace the language with the current contents in this bill regarding vegetation clearances and landowner notifications. This analysis includes contributions from the Senate Committee on Natural Resources and Water.

ANALYSIS:

Existing law:

1) Requires each electrical corporation to construct, maintain, and operate its electrical lines and equipment in a matter that will minimize the risk of catastrophic wildfire. Requires each electrical corporation to annually prepare and submit a wildfire mitigation plan (WMP) to the Wildfire Safety Division (WSD) at the Office of Energy Safety Infrastructure (OEIS) for review and approval. (Public Utilities Code §8386)

2) Authorizes any person who owns, controls, operates, or maintains any electrical transmission or distribution line to traverse land as necessary, regardless of land ownership or express permission to traverse land from the landowner, after providing notice and an opportunity to be heard to the landowner, to prune trees to maintain clearances, as provided, and to abate, by pruning or removal, any hazardous, dead, rotten, diseased, or structurally defective live trees. Authorizes this abatement at the full discretion of the person that owns, controls, operates, or maintains the electrical transmission or distribution lines, with exceptions. (Public Resources Code §4295.5(a))

3) States that the authority to traverse land does not exempt a person who owns, controls, operates, or maintains an electrical transmission or distribution line from liability for damages for the removal of vegetation that is not covered by an easement granted to the person for the electrical transmission or distribution line. (Public Resources Code §4295.5(b))

4) Requires any person that owns, controls, operates, or maintains any electrical transmission or distribution line in a mountainous land, or in forest-covered land, brush-covered land, or grass-covered land to maintain specified clearances between electric utility infrastructure and vegetation. (Public Resources Code §§4292 and 4293)

This bill:

1) States the intent of the Legislature that nothing in this bill exempts a person who owns, controls, operates, or maintains an electrical transmission or distribution line from liability for personal injury or property damage proximately caused by that person's negligence or recklessness in felling, cutting, or trimming trees or vegetation; and that any trees that are felled, cut, trimmed or treated under this legislation must be at no cost to the landowner.

2) Authorizes, notwithstanding any other law or regulation related to trespass or damage liability, an electrical corporation to traverse lands in High Fire Threat Districts (HFTDs) and State Responsibility Areas (SRA), regardless of property ownership and without property owner permission, to cut, fell, or trim hazardous, dead, diseased, or structurally defective live trees in order to maintain clearance around electrical transmission and distribution lines.

3) Requires the electrical corporation's compliance with existing statutes regarding specified clearances in all directions between all vegetation and all conductors which are carrying electrical current, and, if applicable, Rule 35 of the California Public Utilities Commission's (CPUC's) General Order 95 (GO 95).

4) Requires, where the electrical corporation does not have existing rights or the express permission from the landowner, trees that are cut, felled, or trimmed to remain on the property unless the landowner makes a timely request to the electrical corporation to perform a treatment of the wood. Requires an electrical corporation to treat the wood in a manner that is cost-effective and reduces wildfire risk. Provides that the electrical corporation is not obligated to treat or remove the wood if the wood is not safely accessible by its vehicles and equipment or other regulations prohibit the treatment.

5) Requires, except where the landowner has requested the woody material to be kept intact, woody materials trimmed, cut, or felled be treated to achieve a maximum post-activity depth of nine inches.

6) Requires electrical corporations that conduct cutting, felling, or trimming, per the provisions of this bill, to be done in compliance with the California Forest Practice Rules (CFPR) and the California Coastal Act.

7) Requires an electrical corporation to provide notice to the landowner and an opportunity for the landowner to be heard before cutting, felling, or trimming trees. Requires the CPUC, on or before January 1, 2025, to develop, through a public process, standardized content and methods for delivery for a letter, door hanger, or other means of notification an electrical corporation can provide a property owner before pruning, cutting, trimming, or felling trees on property where the electrical corporation does not have existing rights or express permission.

8) Requires, until the CPUC's standardized content is approved, an electrical corporation to make a good faith effort to communicate the process for felling, cutting, or trimming trees to the property owner.

9) Sunsets the provisions of this bill on January 1, 2028.

Background

Wildfires caused by electric utility infrastructure. Electrical utility infrastructure equipment, including downed electric power lines, arcing, and conductor contact with trees and grass, can act as an ignition source. Risks for wildfires has increased with extended drought conditions, bark beetle infestation that has increased tree mortalities, extreme heat and high wind events, along with increased encroachment of development into forested and high-fire threat areas. According to a State Auditor's report titled *Electric System Safety* released in March 2022: since 2015, power lines have caused six of the State's 20 most destructive wildfires. The report also noted that CalFire found that fires caused by power lines hit by falling limbs or trees accounted for 74 percent of the acres burned in its jurisdiction from 2018 through 2020 that were caused by electrical power.

Vegetation clearance. Public Resources Codes §§4292 through 4295 provide specified clearances between utility infrastructure and vegetation, including those in SRAs. The clearances can vary depending on the voltage of the electric line (generally ranging between 4 feet and 10 feet). Additionally, CPUC rules specify vegetation clearance requirements by electric investor-owned utilities (IOUs), including CPUC GO 95, Rule 35. As the State Auditor's report notes:

> California is at a higher risk of wildfires and more frequent power shutoffs in part because of the nearly 40,000 miles of bare power lines in areas where there is a greater threat of wildfire. In 2020 the six utilities [state's electric IOUs] reported completing hardening projects—improvements to make electrical equipment more fire resistant or to reduce the risk of them igniting a fire—on only 1,540 miles of lines.

Vegetation clearance on land not owned by the electric utility. AB 2911 (Friedman, Chapter 641, Statutes of 2018) provided electric utilities the authority to traverse land the utility does not own in order to complete required vegetation clearance work. The bill added Public Resources Code §4295.5 which provides that the electric utility can traverse the land, after providing notice and an

opportunity for the landowner to be heard, in order to prune or remove hazardous trees within SRAs and HFTDs. The bill also included language to not exempt the electric utility from liability for removal of vegetation that is not covered in the utility distribution or transmission line easement.

Forest Practices Rules. The California Forest Practice Act was enacted in 1973 to ensure that logging is done in a manner that will preserve and protect fish, wildlife, forests and streams. The State Board of Forestry and Fire Protection enacts and enforces additional rules to protect these resources, such as the CFPR. The CFPR provides detailed instructions for woody material management, among many other things, for fuel treatment standards that specify wood material management, treatment and removal within specified distances of various structures and roads.

Communities upset with utility vegetation clearance efforts. After the 2020 CZU Lightning Complex fires in the Santa Cruz Mountains were contained, Pacific, Gas & Electric (PG&E) cut thousands of trees, including second growth redwoods, madrones, and cypress, in Boulder Creek, Ben Lomond and Bonny Doon to clear the forests of dead and damaged trees near powerlines. However, more trees were removed than may have been necessary. Though Santa Cruz is in the Coastal Zone, this was all done without a Coastal Development Permit because current law expressly exempts this activity from "any other law," which includes the Coastal Act. Had current law required compliance with CFPR and the Coastal Act, oversight and permitting would have been required, and much of the damage may have been avoided. PG&E faces millions of dollars in fines from the CalFire and the California Coastal Commission for over-cutting large trees.

In addition to the issues in Santa Cruz, many communities have expressed concerns about the efforts by PG&E to prune, trim, and fell trees. Some of these incidents have received news attention, including in Nevada City, El Dorado and Calaveras Counties, to name a few. Additionally, this committee has received comments from residents in various parts of the state who have shared details of the challenges and concerns with the tree trimming and cutting work in their communities. PG&E has also expressed concerns about its ability to conduct appropriate vegetation clearance, sharing "In 2020, there were 10,466 customer work refusals in PG&E's service area, in which property owners initially refused to allow PG&E to complete their vegetation management work."

Comments

SB 396. This bill replicates some of the language in AB 2911 (Friedman, 2018) with notable changes. This bill only applies to electric IOUs, and does not include

other electric utilities. This bill also expands the allowable activities beyond solely pruning or removing hazardous trees, and instead allow cutting, trimming, and felling trees with full discretion by the electric IOU. This bill also does not include the specific liability language included in AB 2911, Public Resources Code §4295.5(b). Instead, this bill includes intent language to not exempt electric utilities from liability caused by reckless or negligence in conducting the vegetation clearance. This bill also includes a section requiring the CPUC, by January 1, 2025, to develop standardized content for landowner notification regarding the electric IOUs intent to cut, trim, fell, or prune trees on the landowner's property.

Strategies to address wildfire risks. As noted above, the WMPs filed by electric IOUs incorporate all the strategies that an electric utility intends to take to reduce wildfire risks. Recognizing the tens of thousands of miles of electric lines that need to be addressed, electric utilities are likely to need a combination of actions, including covered conductor, judicious undergrounding of electric lines, sectioning circuits to limit customer exposure to proactive power outages, as well as, a continued need for vegetation management. Recognizing that bare electric lines present some of the greatest challenges, the need to address this risk is critical. However, given PG&E's announcement to underground 10,000 miles of distribution lines, the need for ongoing vegetation clearance should subside. Nonetheless, the numerous customer concerns and complaints regarding the utility's trimming and cutting of trees raises concerns by many opposed to this bill. They question whether electric IOUs' authority to cut and fell trees on property not owned by the utility should be expanded and their liability limited.

California Coastal Act and Forest Practice Act (FPA). This bill provides that all actions undertaken by an electrical corporation pursuant to the bill's new authority must comply with FPA rules and the Coastal Act. While staff understands this to be declaratory of existing law, this provision is important because some utilities, like PG&E, have questioned the applicability of these laws to their vegetation management activities. CalFire has pushed back on PG&E's claim, issuing 67 notices of violation to PG&E and/or its contractors since 2019, 56 of which have been issued since July 2021. Some stakeholders have raised concerns that this bill's language mandating compliance with the FPA still leaves the door open for PG&E to claim that it's actions are not subject to the FPA.

FPA laws vs rules. This bill only requires compliance with FPA rules; it does not explicitly require compliance with FPA laws. Given this bill's explicit call out of the Coastal Act, some may interpret this bill's leaving out FPA laws as intentional

and that this bill only requires compliance with the FPA rules. According to CalFire, not all FPA laws have associated rules.

Enforcement capacity. Ensuring electric corporations follow the Coastal Act and FPA, when these laws apply, requires sufficient enforcement capacity. Some are concerned that both the Coastal Commission and CalFire lack sufficient enforcement capacity to track and inspect the scale of work being undertaken by utilities to manage wildfire risk around their lines. These groups opposed to this bill believe such an investment may be unlikely given this bill's short life.

Expanded authority to fell trees. This bill would expand an electric utility's authority to maintain clearances around utility lines on land the utility does not own. Opponents argue this would give electrical corporations unfettered power to cut down healthy, mature trees, far outside the utility's right-of-way or easements. In some instances, felling a tree may be the best option to safely maintain clearance. However, there are many cases where pruning is sufficient and the tree can be retained. Opponents of this bill also raise concerns that this bill does not require consideration of other risks or hazards, including those for water quality, habitat, or erosion.

Costs to electric ratepayers and landowners. The challenge of who should pay for removal of hazardous trees can be complicated. In many cases, landowners can not afford to pay for the removal of hazardous trees, however, it may not be reasonable for electric ratepayers to shoulder these costs. Under current processes, an electric IOU must receive approval by the CPUC to recover costs from ratepayers for wildfire mitigation work, after a review by the CPUC to ensure the costs are just and reasonable. This bill appropriately does not change that process. While this bill includes intent language that any trees that are felled, cut, trimmed or treated under this legislation "must be at no cost to the landowner", the intent language, appropriately, does not prevent the CPUC from disallowing electric IOUs from recovering costs that are found to not to be just and reasonable. At the same time, the intent language assures landowners that these costs should not be borne by them.

Notice to landowners. This bill requires the CPUC, by January 1, 2025, to develop a standardized process to notify landowners when an electric IOU intends to traverse their property for vegetation clearance. Many of the entities opposed to this bill express concerns about the two year lag of when this bill would take effect and the date by when the CPUC would develop the standardized notification

requirements. Many of the groups opposed to this bill express concerns that a requirement for a "good faith effort" by the electric IOUs is not sufficient.

Related/Prior Legislation

SB 884 (McGuire, 2022) creates an expedited program by which a large electrical corporation may receive approval for a plan to underground utility distribution infrastructure. The bill is pending on the Assembly Floor.

AB 2911 (Friedman, Chapter 641, Statutes of 2018) proposed numerous provisions related to fire prevention and vegetation management, including providing explicit authority for electric utilities to traverse land as necessary, regardless of land ownership, after providing notice, in order to prune trees to maintain clearances. Explicitly does not exempt electric utilities from liability for damages for the removal of vegetation not within their easements.

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

According to the Assembly Appropriations Committee:

- One-time costs of an unknown but significant amount, likely in the low to mid hundreds of thousands of dollars, to OEIS to develop, through a public process standardized content for use by electrical utilities and landowners, as required by the bill, and to make recommendations (special fund).

- State costs related to bill's provisions regarding firefighting tools should be minor an absorbable.

SUPPORT: (Verified 8/15/22)

Pacific Gas and Electric Company (source)
California Professional Firefighters
Coalition of California Utility Employees
San Diego Gas & Electric
Southern California Edison
Tree Care Industry Association

OPPOSITION: (Verified 8/22/22)

350 Bay Area Action
350 South Bay LA
Alameda County Democratic Party

Bear Yuba Land Trust
Big Sur Land Trust
California Council of Land Trusts
California Forestry Association
California Licensed Foresters Association
California Native Plant Society
Center for Biological Diversity
Change Begins With ME
Defenders of Wildlife
Eastern Sierra Land Trust
Elder Creek Oak Sanctuary
Environmental Protection Information Center
Feather River Land Trust
Forest Landowners of California
Friends of Harbors, Beaches and Parks
Indi Squared
Indivisible CA
Indivisibles: 36, 41, Alta Pasadena, Auburn CA, Beach Cities, CA-14, CA-25 Simi Valley Porter Ranch, CA-29, CA-33, CA-34 Women's Feminists in Action, CA-37, CA-43, CA: Green Team, CA: StateStrong, Claremont / Inland Valley, Cloverdale, Colusa County, East Bay, East Valley, El Dorado Hills, Euclid, Hillcrest, Livermore, Los Angeles, Manteca, Marin, Media City Burbank, Mendocino, Normal Heights, North San Diego County, Orchard City, Petaluma, Resisters Walnut Creek, Rooted in Resistance, Ross Valley, Sacramento, San Diego Central, San Diego Downtown, San Jose, San Pedro, Santa Barbara, Santa Cruz, Santa Cruz County, Sausalito, SF Peninsula, SFV, Sonoma County, South Bay LA, Stanislaus, Suffragists, Together We Will Los Gatos, Ventura, Windsor, Yolo, and Yalla
Marin County Board of Supervisors
Midpeninsula Regional Open Space District
Mountain Progressives
Orinda Progressive Action Alliance
Peninsula Open Space Trust
Placer Land Trust
Planning and Conservation League
Progressive Democrats of California
Progressive Democrats of Santa Monica Mountains
Rural County Representatives of California
Santa Cruz for Bernie
Save the Redwoods League

Sempervirens Fund
Sierra Business Council
Sierra Club California
Sierra Consortium
Sierra County Land Trust
Sierra Foothill Conservancy
So Cal 350
Sonoma Land Trust
The Climate Alliance of Santa Cruz County
The Climate Reality Project
The Resistance Northridge
Town of Fairfax
Truckee Donner Land Trust
Utility Wildfire Prevention Task Force
Valley Women's Club of San Lorenzo Valley Environmental Committee
Venice Resistance
Women's Alliance Los Angeles
Two Individuals

ARGUMENTS IN SUPPORT: According to the author:

> In the last decade, California has seen some of the most destructive and unmanageable wildfires in history. It is imperative that the State assist in streamlining fire mitigation strategies and safety for utility workers and firefighters alike. California utilities and the International Society of Arboriculture have identified thousands of hazard trees that have not been abated because they are located on private or public property where the utility cannot utilize an easement or permission from the landowner to remove them. Currently, utilities face liability for trespassing and treble damages (triple the property value loss) for abating hazard trees where they do not have the authority to do so. This situation between utilities and landowners puts many communities at risk even though the imminent threat of wildfire is widely acknowledged. Efforts to wildfire risk should not place utilities and their employees at odds with public safety. SB 396 is simple wildfire mitigation policy that will assist and ease the stress of some of the State's most vulnerable emergency service workers.

ARGUMENTS IN OPPOSITION: 350 Bay Area Action, Sierra Club California, and others, in a joint letter, express opposition to this bill due to

concerns that “the bill does not provide sufficient safeguards to protect landowners and the environment.” Specifically, they note the lack of explicit statutory language regarding liability from damages caused by the electric IOU, lack of adequate hearing process to allow landowners to be heard, deference to electric IOUs on how to remove or treat trees that are cut or felled, the need for explicit requirement to follow FPA, and lack of meaningful opportunity for landowners to save trees.

Indivisible CA State Strong shares many of the same concerns and provides testimony from individual residents and their experiences with PG&E vegetation clearances. They also express concerns about the reliance on vegetation management in lieu of more “thorough solutions to eliminate utility-caused wildfires” including the application of covered conductors as has been done by Southern California Edison.

ASSEMBLY FLOOR: 54-1, 8/1/22
AYES: Aguiar-Curry, Alvarez, Bloom, Boerner Horvath, Mia Bonta, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Daly, Davies, Flora, Mike Fong, Fong, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Lackey, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Nazarian, Nguyen, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Rodriguez, Blanca Rubio, Salas, Seyarto, Ting, Villapudua, Voepel, Akilah Weber, Wilson, Wood, Rendon
NOES: Stone
NO VOTE RECORDED: Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bryan, Calderon, Megan Dahle, Friedman, Gabriel, Gallagher, Cristina Garcia, Haney, Kalra, Kiley, Lee, Muratsuchi, Patterson, Robert Rivas, Santiago, Smith, Valladares, Waldron, Ward, Wicks

Prepared by: Nidia Bautista / E., U., & C. / (916) 651-4107
8/22/22 13:51:10

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

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UNFINISHED BUSINESS

Bill No: SB 450
Author: Hertzberg (D)
Amended: 6/6/22
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 14-0, 3/23/21
AYES: Dodd, Nielsen, Allen, Becker, Borgeas, Bradford, Glazer, Hueso, Jones, Kamlager, Melendez, Portantino, Rubio, Wilk
NO VOTE RECORDED: Archuleta

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/20/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SENATE FLOOR: 34-0, 1/18/22
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dodd, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Dahle, Durazo, Melendez, Min, Stern, Umberg

ASSEMBLY FLOOR: 76-0, 8/23/22 - See last page for vote

SUBJECT: Fire protection: Special District Fire Response Fund: Office of Emergency Services

SOURCE: California Professional Firefighters

DIGEST: This bill requires the Office of Emergency Services (OES) to administer the Special District Fire Response Fund (SDFR Fund), as specified, and develop a standard grant application form, as specified.

Assembly Amendments provide that rather than requiring the State Board of Fire Services to convene a working group, OES is required to administer the SDFR Fund, develop a standard application form, establish an annual timeline, employ strategies to ensure underfunded special districts are aware of availability of funding, and establish reporting requirements, as specified.

ANALYSIS:

Existing law:

1) Establishes OES, within the office of the Governor, and tasks OES with, among other things, establishing the Wildfire Forecast and Threat Intelligence Integration Center, jointly with the Department of Forestry and Fire Protection (CalFIRE), to collect, assess, and analyze fire weather data, atmospheric conditions, and other threat indicators of wildfire danger, and to develop and share intelligence products related to fire weather and fire threat conditions, as specified.

2) Requires OES to establish and administer the FIrefighting RESources of California Organized for Potential Emergencies (FIRESCOPE Program) to maintain and enhance the efficiency and effectiveness of managing multiagency firefighting resources in responding to an incident.

3) Requires OES to carry out its responsibilities with respect to the FIRESCOPE Program in cooperation with CalFIRE and the Office of the State Fire Marshal (SFM), and with the advice of the Fire and Rescue Advisory Committee/FIRESCOPE Board of Directors.

4) Establishes the SDFR Fund as a subaccount within the California Fire Response Fund within the State Treasury, as specified.

This bill:

1) Requires OES to administer the SDFR Fund, as specified, and to coordinate with the board of directors of the FIRESCOPE Program to do all of the following:
   a) Develop a standard application form to be used by special districts that provide fire protection services to apply for grants from the SDFR Fund, as specified.
   b) Establish an annual timeline for special districts that provide fire protection services to apply for grants from the SDFR Fund.
   c) Employ strategies to ensure that underfunded special districts that provide fire protection services are aware of the availability of the SDFR Fund to expand and increase fire suppression staffing in qualified districts.
   d) Establish reporting requirements for special districts that are awarded grants from the SDFR Fund.

e) Develop metrics for consideration of grant applications consistent with existing law, as specified.

Background

Purpose of the Bill. According to the author's office, "at the November 2020 ballot box, voters overwhelmingly approved Proposition 19, which significantly changed Constitutional rules for property tax assessment transfers in order to correct unfair tax loopholes, provide housing relief for millions of seniors and working families, and create record homeownership opportunities for renters and new homeowners statewide as tens of thousands of homes will become available for the first time in decades. Most importantly, the measure generates desperately needed revenue for fire protection and emergency response in the state's most underfunded areas. SB 450 implements the fire prevention funding provisions of Proposition 19 by requiring OES to administer the fund and thereby increase our state's fire response and prevention capacity."

Proposition 19. In November of 2020, California voters approved Proposition 19, the "Home Protection for Seniors, Severely Disabled, Families, and Victims of Wildfire or Natural Disasters Act." Proposition 19 significantly changed Constitutional rules for property tax assessment transfers, granting eligible homeowners – persons over 55, persons with severe disabilities, and victims of natural disasters or hazardous waste contamination – the ability to transfer their tax assessments to a different home of the same or lesser market value. This essentially allows these homeowners to move without paying higher property taxes.

Proposition 19 also made changes to the "intergenerational transfer exclusion," dictating rules for the transfer of family homes between parents and children, and grandparents and grandchildren. The additional revenues generated from Proposition 19 are to be used to reimburse counties for revenue losses related to the measure's property tax changes, and to fund wildfire suppression efforts.

Proposition 19 created a new section of the California Constitution (Article XIII A, Section 2.2) to allocate any additional revenues or savings to the state resulting from the tax changes to the California Fire Response Fund and the County Revenue Protection Fund, and continuously appropriate moneys to those funds.

Specifically, this section requires the Director of Finance to calculate and certify the additional revenues and net savings to the state resulting from the measure

during the preceding fiscal year. Upon certification, the State Controller is required to transfer 75% of the amount to the California Fire Response Fund. Revenue in the California Fire Response Fund are subject to appropriation by the Legislature according to a specified methodology, which states funds must be used to expand fire suppression staffing in underfunded special districts that provide fire suppression staffing, and must not supplant existing state or local funds utilized for those purposes, and further:

- Allocates 20% to CalFIRE to fund fire suppression staffing.
- Sends 80% to the SDFR Fund for districts that provide fire protection services, as specified.

This bill, in directing OES to administer the SDFR Fund and to establish a grant application process, resolves some of the ambiguity in Proposition 19 in terms of how it would become operative for eligible fire districts.

FIRESCOPE. FIRESCOPE's mission is to provide recommendations and technical assistance to OES; to maintain the FIRESCOPE Decision Process and continue the operation, development, and maintenance of the FIRESCOPE Incident Command System and the Multi-Agency Coordination System; and maintain a system known as the FIRESCOPE Decision Process to continue statewide operation, development, and maintenance. The FIRESCOPE vision is to continue national leadership in the development of all-hazard incident management and multi-agency coordination systems, to enhance and encourage full participation by the California fire service in the statewide Fire and Rescue Mutual Aid System, and to provide a common voice for the California fire service relating to these issues.

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

According to the Assembly Appropriations Committee, annual costs of approximately $1.3 million to OES for five additional staff positions to develop and administer the grant program in a manner that prioritizes underfunded districts, as specified in the California Constitution pursuant to Proposition 19 (2020).

SUPPORT: (Verified 8/22/22)

California Professional Firefighters (source)
California Fire Chiefs Association
California Special Districts Association
Fire Districts Association of California

OPPOSITION: (Verified 8/22/22)

None received

ARGUMENTS IN SUPPORT: In support of this bill, the California Professional Firefighters write that, "SB 450 will task CalOES with administering the Special District Fire Response Fund and outlines the requirements for establishing a grant application process, reporting mechanisms, and outreach to eligible districts to ensure that they are aware that the funding is available. As part of these requirements, SB 450 outlines that CalOES shall develop a standard application form for fire districts to apply for grants from the Fund that includes: [i]dentification of the fire districts' eligibility; [t]he number of additional fire suppression staff that will be supported by the grant; [t]he benefits to firefighter health and safety and community response in the fire district; [i]dentification of opportunities to leverage other funding sources should the grant be funded."

Further, the sponsor states that "revenues generated by Proposition 19 have the potential to radically improve the quality and nature of fire protection provided by underfunded fire districts throughout the state. As the threat of wildfire grows more dangerous each year, it is critical that California prioritizes the fire service, ensuring that there are enough paid, professional firefighters in every fire district to keep their communities safe."

ASSEMBLY FLOOR: 76-0, 8/23/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Bigelow, Davies, Gray

Prepared by: Brian Duke / G.O. / (916) 651-1530
8/23/22 14:43:41

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

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UNFINISHED BUSINESS

Bill No: SB 532
Author: Caballero (D), et al.
Amended: 6/22/22
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 3/17/21
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, McGuire, Pan

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/20/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SENATE FLOOR: 36-0, 1/24/22
AYES: Allen, Archuleta, Atkins, Becker, Borgeas, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Bates, Bradford, Dahle, Min

ASSEMBLY FLOOR: 77-0, 8/23/22 - See last page for vote

SUBJECT: Pupil instruction: high school coursework and graduation requirements: exemptions and alternatives

SOURCE: Los Angeles County Office of Education
National Center for Youth Law
SchoolHouse Connection

DIGEST: This bill (1) expands and strengthens the rights for foster youth, homeless youth, former juvenile court school students, children of military families, and migratory children to be exempted from local graduation requirements if certain conditions are met; (2) requires local educational agencies (LEAs) to provide those students the option to remain in school for a fifth year to complete the statewide coursework requirements if certain conditions are met; and

(3) requires LEAs to annually report to the California Department of Education (CDE) the number of students that graduate with an exemption from the LEA's local graduation requirements.

Assembly Amendments:

1) Add findings and declarations.

2) Require an LEA that exempts a highly mobile student from local graduation requirements, as required by current law, to consult with, rather than inform, the student and their parent or guardian on various items, including how graduating with the state graduation requirements may affect the pupil's postsecondary or vocational future.

3) Require LEAs, until January 1, 2028, to consult with a highly mobile student and their parent or guardian of the option to remain in high school for a fifth year if the LEA determines the student is reasonably able to complete the LEA's local graduation requirements within that time. Also expand these provisions to students enrolled in adult education programs who are or were highly mobile students in high school, regardless of age.

4) Provide various changes to how LEAs accept coursework of a highly mobile student who transfers to a new LEA.

5) Require LEAs to annually report to CDE, and CDE shall then make public on its website on an annual basis, the number of students who graduated with an exemption from their LEA's local graduation requirements.

ANALYSIS:

Existing law:

1) Requires LEAs to exempt students in foster care, students who are homeless children or youth, former juvenile court school students, and students who are children of military families (hereafter "mobile students") who transfer between schools any time after the completion of the students' second year of high school from all coursework and other requirements that are in addition to state graduation requirements, unless an LEA makes a finding that a student is reasonably able to complete the LEA's graduation requirements in time to graduate from high school by the end of the student's fourth year of high school. (Education Code § 51225.1)

2) Requires an LEA, if the LEA determines that the mobile student is reasonably able to complete the LEA's graduation requirements within the student's fifth year of high school, to do all of the following as specified. (EC § 51225.1)

3) Requires, in order to determine whether a mobile student is in the third or fourth year of high school, either the number of credits the student has earned to the date of transfer or the length of the student's school enrollment to be used, whichever will qualify the student for the exemption. (EC § 51225.1)

4) Requires an LEA, within 30 calendar days of the date that a mobile student who may qualify for the transfers into a school, to notify the student, the person holding the right to make educational decisions for the student, and the student's social worker or probation officer, or LEA liaison for homeless children and youth, as applicable, of the availability of the exemption and whether the student qualifies for an exemption. (EC § 51225.1)

5) Requires, if an LEA fails to provide timely notice, the mobile student to be eligible for the exemption from local graduation requirements once notified, even if that notification occurs after the student no longer meets the definition of a student in foster care, a student who is a homeless child or youth, a former juvenile court school student, or a student who is a child of a military family, if the student otherwise qualifies for the exemption. (EC § 51225.1)

6) Prohibits a mobile student who is eligible for the exemption and would otherwise be entitled to remain in attendance at the school from being required to accept the exemption or from being denied enrollment in, or the ability to complete, courses for which he or she is otherwise eligible, including courses necessary to attend an institution of higher education, regardless of whether those courses are required for statewide graduation requirements. (EC § 51225.1)

7) Requires an LEA, if a mobile student is not exempted or has previously declined the exemption, to exempt the student at any time if an exemption is requested by the student and the student qualifies for the exemption. (EC § 51225.1)

8) Prohibits an LEA from revoking the exemption. (EC § 51225.1)

9) Requires a mobile student's exemption to continue to apply after the termination of the court's jurisdiction over the student, after the student is no longer a homeless child or youth, or after the student no longer meets the definition of "children of military families," as applicable, while he or she is

enrolled in school or if the student transfers to another school or LEA. (EC § 51225.1)

10) Prohibits an LEA from requiring or requesting a mobile student to transfer schools in order to qualify the student for an exemption. (EC § 51225.1)

This bill: (1) expands and strengthens the rights for foster youth, homeless youth, former juvenile court school students, children of military families, and migratory children to be exempted from local graduation requirements if certain conditions are met; (2) requires LEAs to provide those students the option to remain in school for a fifth year to complete the statewide coursework requirements if certain conditions are met; and (3) requires LEAs to annually report to CDE the number of students that graduate with an exemption from the LEA's local graduation requirements. Specifically, this bill:

1) Requires an LEA, if the LEA determines that a mobile student is reasonably able to complete the LEA's graduation requirements within the student's fifth year of high school, to inform a pupil in foster care or the pupil who is a homeless child or youth of the pupil's option to remain in the pupil's school of origin, pursuant to federal law.

2) Authorizes, for pupils with significant gaps in school attendance, the pupil's age as compared to the average age of pupils in the third or fourth year of high school to be used to determine whether a mobile student is in the third or fourth year of high school.

3) Requires a school district to exempt a mobile student who was at one point eligible for the exemption, but who was not properly notified of the availability of the exemption or who declined the exemption, if at any time the mobile student later requests the exemption, even if the student is no longer homeless or the court's jurisdiction over the pupil has terminated.

4) Requires a school district to provide a mobile student the option to remain in school for a fifth year to complete the statewide coursework requirements, if the mobile student, who transferred between schools any time after the completion of the student's second year of high school, is not reasonably able to complete the *school district's graduation requirements* within the student's fifth year of high school, but is reasonably able to complete the *statewide coursework requirements* within the student's fifth year of high school.

5) Requires a school district to reevaluate a mobile student's eligibility within the first 30 calendar days of the next academic year after they were determined to

be ineligible, in order to determine if the student continues to be reasonably able to complete the school district's graduation requirements in time to graduate from high school by the end of the pupil's fourth year of high school. If the student is not reasonably able to complete the school district's graduation requirements in time to graduate from high school by the end of the pupil's fourth year of high school, the school district must exempt the student from all coursework and other requirements adopted by the governing board of the school district that are in addition to the statewide coursework requirements and notification of the availability of the exemption.

6) Extends the exemptions provisions to mobile students who are enrolled in an adult education program, regardless of their age, and to students enrolled in an adult education program, who, while enrolled in high school, would have qualified as mobile students.

7) Specifies that for purposes of the exemptions provisions for a student who is an unaccompanied youth, as that term is defined in federal law, the "person holding the right to make educational decisions for the pupil" is the unaccompanied youth themselves.

8) Requires each LEA to report to the CDE annually the number of students that graduate with an exemption from the LEA's graduation requirements that are in addition to the statewide coursework requirements, and requires that data to be reported for students graduating in the fourth year and fifth year cohorts, and to be disaggregated by student category.

Comments

1) *Need for the bill.* According to the author's office, "This bill aims to strengthen Education Code 51225.1, which currently provides expanded opportunities to achieve a high school diploma for highly mobile students (students who experiencing homelessness, are in foster care, formerly in juvenile court school, are in military families, are migrant or in the newcomer program), that experience a school move after their second year in high school. Currently Ed. Code 51225.1 provides students with the option to opt into a 5th year of high school to complete LEA coursework requirements that are in addition to the statewide coursework requirements, or graduate with an exemption from LEA coursework requirements in their fourth year of high school."

2) *Statewide graduation requirements vs. local 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.

Existing law authorizes local school district governing boards to impose additional graduation requirements beyond the state-mandated graduation requirements, and many school districts and charter schools have added some additional local graduation requirements, such as four years of English or three years of math, or a health course, and some have even incorporated the robust University of California/California State University A-G admission requirements into their local graduation requirements.

3) *Effect of mobility on academic outcomes*. Numerous studies indicate that student mobility is associated with poor educational outcomes. One meta-analysis (Mehana, 2004) on the effects of school mobility on reading and math achievement in the elementary grades found the equivalent of a three- to four-month performance disadvantage in achievement. Another (Reynolds, 2009) found that frequent mobility was associated with significantly lower reading and math achievement by up to a third of a standard deviation, and that students who moved three or more times had rates of school dropout that was nearly one-third of a standard deviation higher than those who were school stable. One longitudinal study (Temple, 1999) found that half of the one year difference between mobile and non-mobile students could be attributed to mobility, and that it is "frequent, rather than occasional, mobility that significantly increases the risk of underachievement." Another longitudinal study (Herbers, 2014) found that students who experience more school changes between kindergarten and twelfth grade are less likely to complete high school on time, complete fewer years of school, and attain lower levels of

occupational prestige, even when controlling for poverty. Results of this study indicated more negative outcomes associated with moves later in the grade school career, particularly between fourth and eighth grade.

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

According to the Assembly Appropriations Committee, this bill potentially has significant ongoing Proposition 98 General Fund cost pressures to LEAs serving highly mobile high school students to comply with the provisions of this bill, including consulting, rather than notifying, students of their rights, changing transcript processes, reporting data to CDE and other costs. The state has 1,315 high schools, according to CDE. If the Commission on State Mandates determines the bill's requirements to be a reimbursable state mandate, the state would need to reimburse these costs either directly to LEAs or through the K-12 Mandates Block Grant. Ongoing Proposition 98 General Fund costs to provide additional funding to LEAs to enroll highly mobile students in a fifth year of high school. Costs would depend on the number of students opting to complete a fifth year of high school. Per-student funding for a high school student in the 2021-22 school year was $10,057 annually, with additional funding for a foster youth, low-income or English learner students. Minor ongoing General Fund costs to CDE to make highly mobile student data publicly available.

SUPPORT: (Verified 8/23/22)

Los Angeles County Office of Education (co-source)
National Center for Youth Law (co-source)
SchoolHouse Connection (co-source)
Alliance for Children's Rights
American Civil Liberties Union/Northern Californian/Southern California/San Diego and Imperial Counties
California Association for Bilingual Education
California Labor Federation, AFL-CIO
California Teachers Association
California Youth Connection
Californians Together
Ceres Unified High School
Children Now
Disability Rights California
John Burton Advocates for Youth
Law Foundation of Silicon Valley
Lawyers Committee for Civil Rights of the San Francisco Bay Area

Monterey County Office of Education
National Association of Social Workers, California Chapter
Patterson Joint Unified School District
Public Advocates Inc.
Public Counsel Parent Institute for Quality Education
Santa Clara County Office of Education
Teach Plus
Youth Law Center

OPPOSITION: (Verified 8/23/22)

None received

ARGUMENTS IN SUPPORT: According to the Alliance for Children's Rights "SB 532 addresses school stability and academic achievement by expanding and strengthening the rights of highly mobile students by requiring LEAs to provide those students the option to remain in school for a fifth year to complete the statewide coursework requirements if certain conditions are met to positively impact postsecondary education and employment. In addition, SB 532 works to ensure students and their parent/educational rights holder are provided information about available alternatives to make an informed decision about their options, including how the options may affect the student's postsecondary plans. To reduce the achievement gap, current law requires schools to calculate partial credit so that highly mobile youth receive credit for the coursework completed when they must change schools to prevent undue disruptions and delays in achieving graduation. SB 532 supports a more holistic and collaborative approach on educational options between highly mobile students and schools through a more active consultation about graduation options to promote informed decision making, and expands and strengthens existing educational rights to positively impact postsecondary education and vocational opportunities."

ASSEMBLY FLOOR: 77-0, 8/23/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca

Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Davies, Gray

Prepared by: Kordell Hampton / ED. / (916) 651-4105
8/23/22 15:01:05

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

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UNFINISHED BUSINESS

Bill No: SB 543
Author: Limón (D), et al.
Amended: 8/15/22
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 13-0, 3/9/21
AYES: Dodd, Nielsen, Allen, Archuleta, Borgeas, Bradford, Glazer, Hueso, Jones, Melendez, Portantino, Rubio, Wilk
NO VOTE RECORDED: Becker

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/20/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SENATE FLOOR: 34-0, 1/18/22
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dodd, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Dahle, Durazo, Melendez, Min, Stern, Umberg

ASSEMBLY FLOOR: 76-0, 8/23/22 - See last page for vote

SUBJECT: Department of General Services: nonprofit liaison

SOURCE: CalNonprofits

DIGEST: This bill requires the Department of General Services (DGS) to designate a person to serve as a nonprofit liaison, as specified.

Assembly Amendments remove the requirement that any state agency that significantly regulates or impacts nonprofit corporations to designate a person to serve as a nonprofit liaison, as specified, and instead require DGS to designate at least one person to serve as a nonprofit liaison, as specified.

ANALYSIS:

Existing law:

1) Establishes DGS to provide centralized services, including, but not limited to, planning, acquisition, construction, and maintenance of state buildings and property, purchasing, printing, architectural services, administrative hearings, and accounting services.

2) Requires a state agency that significantly regulates small business or that significantly impacts small business to designate at least one person to serve as a small business liaison. Requires the agency to utilize existing personnel and resources to perform the duties of small business liaison.

3) Prohibits the small business liaison from advocating for or against the adoption, amendment, or repeal of any regulation or intervene in any pending investigation or enforcement action.

This bill:

1) Requires DGS to designate at least one person to serve as a nonprofit liaison.

2) Requires DGS to advertise the existence of its nonprofit liaison by displaying the nonprofit liaison's name and contact information on its internet website.

3) Requires a nonprofit liaison to be responsible for all of the following:

   a) Responding to complaints from nonprofit corporations about DGS.
   b) Providing technical assistance to nonprofit corporations to help them comply with DGS's regulations.
   c) Reporting nonprofit corporation concerns and recommendations to the Director of DGS.
   d) Developing and sharing innovative procurement and contracting practices to increase opportunities for nonprofit corporations.

4) Prohibits the nonprofit liaison from advocating for or against the adoption, amendment, or repeal of a regulation, or intervene in a pending investigation or enforcement action.

5) Defines a "nonprofit corporation" to mean either a nonprofit mutual benefit corporation or a nonprofit public benefit corporation, as specified.

Background

Nonprofits in California. Nonprofit organizations rank as the fourth largest industry in California by employment, with nearly one million people employed in the sector throughout the state, contributing approximately 15% of California's gross state product. Additionally, nonprofits bring in approximately $40 billion in revenue to California from out-of-state sources. The author argues that strong government-nonprofit partnerships support a vibrant services supply chain, workforce, and economy – similar to small businesses in the state.

This bill requires DGS to designate at least one person as a nonprofit liaison, and to advertise the existence of this liaison online. This bill prohibits the nonprofit liaison from advocating for or against

Comments

Purpose of the bill. According to the author's office, "whether it is homelessness, natural disasters, or our current public health crisis, the nonprofit sector has touched the lives of every Californian. SB 543 will ensure that the nonprofit sector has the necessary state support to provide critical services to our communities."

Related/Prior Legislation

SB 784 (Glazer, 2022) authorizes a nonprofit entity that provides supportive services pursuant to a contract with the state, during a state of war emergency or a state of emergency, to adjust the method in which it provides those services so long as the purpose of the contract is served. (Pending on the Senate Inactive File)

AB 1548 (Gabriel, Chapter 734, Statutes of 2019) established the California State Nonprofit Security Grant Program to improve the physical security of nonprofit organizations that are at high risk of terrorist attack due to ideology, beliefs, or mission.

SB 1436 (Figueroa, Chapter 234, Statutes of 2006) re-established the position of the Small Business Liaison which was eliminated when all the code sections related to the California Trade, Commerce, and Technology Agency were eliminated in 2003.

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

According to the Assembly Appropriations Committee, this bill has "General Fund costs in excess of $150,000 to DGS to add a staff position to serve as the liaison."

SUPPORT: (Verified 8/23/22)

CalNonprofits

OPPOSITION: (Verified 8/23/22)

None received

ARGUMENTS IN SUPPORT: In support of the bill, CalNonprofits states that, "[s]trong government-nonprofit partnerships support a vibrant services supply chain, workforce, and economy. The current pandemic, with increased need for contract flexibility and demands for nonprofit services, highlights the need for strong government-nonprofit partnerships. A designated nonprofit liaison will help build and maintain healthy government-nonprofit partnerships by addressing nonprofit concerns with the agency, assisting with nonprofit compliance with agency policies, developing innovative procurement and contract practices, and reporting nonprofit concerns to agency leadership. CalNonprofits strongly supports SB 543 because it will provide nonprofits with the state agency support they need to serve as the vital service providers, economic drivers, and employers they are."

ASSEMBLY FLOOR: 76-0, 8/23/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Davies, Gallagher, Gray

Prepared by: Brian Duke / G.O. / (916) 651-1530
8/23/22 15:12:09

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

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UNFINISHED BUSINESS

Bill No: SB 616
Author: Rubio (D), Caballero (D) and Min (D), et al.
Amended: 6/20/22
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 4/28/21
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, McGuire, Pan

SENATE JUDICIARY COMMITTEE: 11-0, 8/24/22 (Pursuant to Senate Rule 29.10)
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

SENATE FLOOR: 37-0, 5/10/21 (Consent)
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Caballero, Limón, Stern

ASSEMBLY FLOOR: 76-0, 8/15/22 - See last page for vote

SUBJECT: Child custody: child abuse and safety

SOURCE: Center for Judicial Excellence

DIGEST: This bill increases and expands ongoing domestic violence and child abuse educational requirements for judges, referees, commissioners, mediators, child custody recommending counselors, and evaluators involved in domestic violence and child custody proceedings; clarifies that, when making child custody and visitation orders, the health, safety, and welfare of the child and the safety of all family members is paramount; and provides examples of prohibited family reunification services, which cannot be ordered as a part of a child custody or

visitation proceeding, including reunification therapy, treatments, programs, workshops or camps that are predicated on cutting off a child from a parent with whom the child is bonded.

Assembly Amendments delete the contents of the bill previously passed by the Senate and amend in the current version of the bill.

ANALYSIS:

Existing law:

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

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

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

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

2) Requires that custody of a child be granted according to a set order of preference, based on the best interests of the child, but that the order of preference establishes neither a preference, nor a presumption, for or against joint legal custody, joint physical custody, or sole custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child. (Fam. Code, § 3040.)

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

4) Provides that when determining the best interests of a child, a court may consider any relevant factors and must consider: the health, safety, and welfare of the child; any history of abuse by any party seeking custody, any family

members of any party seeking custody, or the intimate partner or cohabitant of any party seeking custody; the nature and amount of contact with the parents; and substance abuse by a parent. The court may not consider the sex, gender identity, gender expression, or sexual orientation of a parent, legal guardian, or relative in determining the best interests of the child. (Fam. Code, § 3011.)

5) Requires a court to grant reasonable visitation to a parent when it is shown that visitation is in the child's best interests. (Fam. Code, § 3100.)

6) Prohibits a court from ordering family reunification services as part of a child custody or visitation rights proceeding. (Fam. Code, § 3026.)

7) Creates a rebuttable presumption against custody of a child to a parent who, the court finds, has perpetrated domestic violence against the other party, the child, the child's sibling, or certain other individuals, as provided, within the previous five years. In considering whether to overcome the presumption against custody, a court must consider, among other things, whether giving that parent custody is in the child's best interests; whether the perpetrator has completed a batterer's treatment program, substance abuse program or parenting classes; and whether there have been subsequent acts of domestic violence. (Fam. Court, § 3044.)

8) Requires the Judicial Council to establish judicial training programs for judges, referees, commissioners, mediators, and others as deemed appropriate by the Judicial Council who perform duties in family law matters.

   a) The training program must include a family law session in any orientation session conducted for newly appointed or elected judges and an annual training session in family law.

   b) The training in 7)a) must include instruction in all aspects of family law, including effects of gender, gender identity, and sexual orientation on family law proceedings, the economic effects of dissolution on the involved parties, and the effects of allegations of child abuse or neglect made during family law proceedings. (Gov. Code, § 68553; Cal. Rules of Court, Rule 10.463.)

9) Requires the Judicial Council to establish judicial training programs for individuals who perform duties in domestic violence matters, including, but not limited to, judges, referees, commissioners, mediators, and others as deemed appropriate by the Judicial Council.

a) The training programs must include a domestic violence session in any orientation session conducted for newly appointed or elected judges and an annual training session in domestic violence.

b) The domestic violence training programs must include instruction in all aspects of domestic violence, including, but not be limited to, training on the detriment to children of residing with a person who perpetrates domestic violence and the fact that domestic violence can occur without a party seeking or obtaining a restraining order, without a substantiated child protective services finding, and without other documented evidence of abuse. (Gov. Code, § 68555; Cal. Rules of Court, Rule 10.464.)

This bill:

1) Makes findings and declarations relating to the prevalence of child abuse and domestic violence in the United States and the Legislature's intent to increase the priority given to the safety of a child in any state court divorce, separation, visitation, paternity, child support, civil protection order, or family custody court proceeding affecting the custody and care of children.

2) Further clarifies that, when there is a conflict between the policies of ensuring the best interests of a child and ensuring that children have contact with both parents following a separation, the court's order must ensure that the health, safety, and welfare of the child and the safety of all family members "are paramount."

3) Clarifies the existing prohibition on a court ordering family reunification services, to specify that reunification therapy, treatments, programs, workshops, and/or camps predicated on cutting off a child from a parent with whom the child is bonded or to whom the child is attached may not be ordered as part of a custody or visitation rights proceeding.

4) Requires all judges assigned to family law matters involving child custody proceedings, as well as judges, referees, commissioners, mediators, child custody recommending counselors, and evaluators involved in child custody proceedings, to participate in a program of continuing instruction in domestic violence, including child abuse.

5) Adds child-custody-recommending counselors and evaluators to the list of persons who perform duties in family law matters for whom the Judicial Council must establish a judicial training program.

6) Requires the training in 5) to be designed to improve the ability of judges, referees, commissioners, mediators, child-custody-recommending counselors, evaluators, and others who are deemed appropriate who perform duties in family law matters, to recognize and respond to child abuse, domestic violence, and trauma in all family victims, particularly children, and make appropriate custody decisions that prioritize child safety and well-being and are culturally responsive and appropriate for diverse communities.

7) Requires the training in 5) to include a minimum of 25 hours for the orientation session and a minimum of 20 training hours to be required every three years thereafter, and to include education, using all available resources, on all of the following:

   a) Child sexual abuse.

   b) Physical abuse.

   c) Emotional abuse.

   d) Coercive control.

   e) Implicit and explicit bias, including biases relating to parents with disabilities.

   f) Trauma.

   g) Long-term and short-term impacts of domestic violence and child abuse on children.

   h) Victim and perpetrator patterns and relationship dynamics within the cycle of violence.

8) Adds child custody recommending counselors and evaluators to the list of persons who perform duties in domestic violence matters for whom the Judicial Council must establish a judicial training program, expands the training program to require training on child abuse and the impact of domestic violence on children, and requires the program to be a minimum of 25 hours for orientation and a minimum of 20 hours every three years thereafter.

Comments

This bill makes several clarifications to the law that the author and sponsors believe will further strengthen California's child custody laws so as to prevent child abuse. Specifically, the bill clarifies that a court's order regarding physical or

legal custody or visitation shall be made in a manner that ensures the health, safety, and welfare of the child and the safety of all family members is paramount; expands on the existing prohibition on ordering reunification services in a child custody case; and significantly expands judicial training requirements and mandates training on specific topics for judges and others involved in domestic violence and child custody cases. The author and sponsor believe that these additional provisions could help California secure additional funding under the newly reauthorized Violence Against Women Act (VAWA).[1] According to the sponsor, however, the federal Department of Justice has not yet published regulations setting forth the criteria for applying for funding, so it is not clear whether passing this bill will allow California to draw down VAWA funding or how much funding would be awarded. Judicial Council, writing in opposition, has also raised the concern that the bill's judicial training requirements violate the constitutional separation of powers by unduly infringing on the Judiciary's authority.

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

SUPPORT: (Verified 8/22/22)

Center for Judicial Excellence (source)
Advocates for Child Empowerment and Safety
California Protective Parents Association
California Women's Law Center
Children's Law Center of California
County of Los Angeles
County of Los Angeles, Office of the District Attorney
County of Los Angeles, Office of the Sheriff
Crime Survivors Resource Center
Family Violence Appellate Project
Incest Survivors' Speakers Bureau of California
Just-A-Word Ministries
Legislative Coalition to Prevent Child Abuse
One Mom's Battle
Parents of Murdered Children, Inc., Los Angeles Chapter
United States Senator Dianne Feinstein
West Sacramento Mayor Martha Guerrero
12 individuals

[1] *See* S. 3623, 117th Congress (2021-2022), signed as part of the omnibus appropriations package.

OPPOSITION: (Verified 8/22/22)

Family Reunion
Judicial Council of California
Mothers Against Child Abuse
Parental Alienation Europe
PAS-Intervention MD Chapter
The Hero's Circle

ARGUMENTS IN SUPPORT: According to the Center for Judicial Excellence, the sponsor of this bill:

> Domestic violence and child abuse are complex issues, which can be difficult to spot. A recent study showed that California family court mediators are approximately twice as likely to ignore, minimize or refute evidence of child abuse than mediators in other states. (Stahly, 2022.) This is one of the reasons that our judges and other court personnel need to be better equipped to identify abuse and make more informed decisions about child placement.
>
> Congress and President Biden have recognized this crisis and are putting a significant financial incentive behind their effort to encourage states to modernize their custody laws and prioritize child safety. Currently, family courts too often allow rampant junk science and victim-blaming to force child abuse victims into ongoing visitation or custody with their parental abuser. VAWA has earmarked federal money for states that update and modernize their custody laws by prioritizing child safety. This funding will be available to eligible states from FY 2023 through 2027. If SB 616 is enacted this year, California will be the first state in the nation to adopt multiple portions of Kayden's Law that are required to draw down these funds…
>
> SB 616 does not specifically mandate a separate training, as these hours can be woven into the Judicial Council's existing training programs, including those detailed in Family Code Section 1816, or spread out over time. This legislation leaves it to the Judicial Council's discretion as to how they want to meet the bill's requirements.

ARGUMENTS IN OPPOSITION: According to the Judicial Council of California, writing in opposition:

> The judicial branch is fundamentally based on impartiality and neutrality. Bias in the courts erodes confidence in the court system. The highly specific training topics mandated by SB 616 gives rise to concerns regarding who the possible

training experts could be, and whether the training topics implicate an advocacy agenda intended to improperly influence judicial impartiality and neutrality rather than pedagogically sound education and training.

And finally, SB 616 creates internally inconsistent conflicts for judicial officers sitting in Family Law assignments. While the fundamental tenets of child custody determinations include consideration of the best interests, and ensuring the safety, of the child, SB 616 would prohibit a court from separating a child from a parent to whom a child is bonded or attached even if the court determines that the child is bonded or attached to the parent found to be the abuser.

ASSEMBLY FLOOR: 76-0, 8/15/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Chen, Choi, Gray, Haney

Prepared by: Allison Meredith / JUD. / (916) 651-4113
8/24/22 19:23:29

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

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UNFINISHED BUSINESS

Bill No: SB 679
Author: Kamlager (D), et al.
Amended: 8/15/22
Vote: 21

SENATE HOUSING COMMITTEE: 6-1, 4/15/21
AYES: Wiener, Caballero, Cortese, Ochoa Bogh, Skinner, Wieckowski
NOES: Bates
NO VOTE RECORDED: McGuire, Umberg

SENATE GOVERNANCE & FIN. COMMITTEE: 4-0, 4/22/21
AYES: McGuire, Nielsen, Durazo, Wiener
NO VOTE RECORDED: Hertzberg

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

SENATE FLOOR: 29-7, 6/1/21
AYES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Gonzalez, Hertzberg, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Ochoa Bogh, Pan, Roth, Rubio, Skinner, Stern, Wieckowski, Wiener
NOES: Bates, Borgeas, Dahle, Grove, Jones, Nielsen, Wilk
NO VOTE RECORDED: Glazer, Melendez, Portantino, Umberg

ASSEMBLY FLOOR: 42-19, 8/24/22 - See last page for vote

SUBJECT: Los Angeles County: affordable housing

SOURCE: United Way of Greater Los Angeles

DIGEST: This bill establishes the Los Angeles County Affordable Housing Solutions Agency (LACAHSA), and authorizes LACAHSA to utilize specified

local financing tools to fund renter protections and the preservation and production of housing units affordable to households earning up to 80% of the area median income (AMI).

Assembly Amendments change the composition of the LACAHSA board membership, make changes to the small city funding set-aside, and allow future local housing trust funds to administer funding.

ANALYSIS:

Existing law:

1) Establishes the Bay Area Housing Finance Authority (BAHFA) to raise, administer, and allocate funding for affordable housing in the San Francisco Bay Area, and provide technical assistance at a regional level for tenant protection, affordable housing preservation, and new affordable housing production.

2) Sets forth the governing structure and powers of the BAHFA Board, allowable financing activities, and allowable expenditures of the revenues generated.

This bill:

1) Establishes LACAHSA as a public agency, as follows:

   a) The jurisdiction of the agency includes all of the County of Los Angeles, except that:

      i) LACAHSA will only have jurisdiction to act in a supplemental capacity when a municipality has, as of January 1, 2022, an existing program that provides similar supports and services;

      ii) No functions of existing programs may be transferred to or undertake by LACAHSA; and

      iii) LACAHSA may not perform or undertake any functions related to supports and services provided to people experiencing homelessness, unless such supports and services are explicitly authorized by this bill or are directly related to the provision of other supports and services authorized explicitly by this bill.

   b) Its purpose is to increase the supply of affordable housing in Los Angeles County by providing for significantly enhanced funding and technical

assistance at a regional level for renter protections, affordable housing preservation, and new affordable housing production of 100% affordable housing for households earning 80% of the appropriate area median income or below, with financing priority on the lowest levels of affordability;

c) It must complement and supplement existing efforts by cities, counties, districts, and other local, regional, and state entities, related to addressing the goals described in this title; and

d) It cannot have powers, duties, or responsibilities until April 1, 2023.

2) Establishes the governance and administrative structure for LACAHSA, including that it will have a governing board consisting of 21 voting members and one non-voting member, as specified.

3) Establishes a citizens' oversight committee for LACAHSA, as specified.

4) Establishes the duties and responsibilities of LACAHSA, including the following:

a) Develop an annual expenditure plan that sets forth the share of revenue and funding to be spent on each of the categories specified in (6)(c), indicate the household income levels served within each category, and an estimate of the number of affordable housing units to be built or preserved and the number of tenants to be protected. The expenditure plan must also include a description of any specific project or program proposed to receive funding, including the location, amount of funding, and anticipated outcomes project-specific data;

b) Engage in specified public participation processes;

c) Contract for annual audits of LACAHSA's general administration, accounts, and records, maintain accounting records, and report accounting transactions, as specified;

d) Review implementation of the initial voter-approved ballot measure five years after its approval, as specified;

e) Conduct a comprehensive review of all projects and programs implemented under the expenditure plan every five years, as led by the Office of the Inspector General;

f) Monitor expenditures in coordination with local jurisdictions, and at least every five years, conduct a review of revenues and adopt any necessary guidelines to ensure they are spent in a timely manner and consistent with the measure's requirements; and

g) Submit an annual report to the Legislature to ensure oversight and accountability of the agency.

5) Establishes LACAHSA's powers, including:

a) Authorization to place funding measures on the ballot for purposes of preserving and enhancing existing housing, funding renter protection programs and financing new construction of housing developments. Specifies the parameters regarding the placement of the funding measure on the ballot, include the timing of the election, reimbursement to the county for the costs of the election, and the publicly available materials;

b) Authorization to raise and allocate new revenue through all the following funding mechanisms:

i) A parcel tax, as specified;

ii) A gross receipts business license tax, as specified;

iii) A document transfer tax, as specified; and

iv) The issuance of bonds, including but not limited to, general obligation bonds, revenue bonds, mortgage revenue bonds, and private activity bonds, as specified.

c) Authorization to carry out specified financial, legal, and administrative powers necessary to carry out the intent and purpose of the measure, including:

i) Applying for and receiving grants from federal and state agencies.

ii) Incurring and issuing indebtedness and assess fees on the purchaser of any debt issuance and agency loan products for reinvestment of those fees and loan repayments in affordable housing production and preservation in accordance with applicable constitutional requirements;

iii) Incurring debt and issuing bonds and otherwise incur liabilities or obligations;

iv) Soliciting and accepting gifts, fees, grants, and other allocations from public and private entities;

v) Depositing or investing moneys of the agency in banks or financial institutions in the state;

vi) Suing and being sued, except as otherwise provided by law, in all actions and proceedings, in all courts and tribunals of competent jurisdiction;

vii) Engaging counsel and other professional services;

viii) Entering into and performing all necessary contracts;

ix) Entering into joint powers agreements pursuant to the Joint Exercise of Powers Act;

x) Hiring staff, defining their qualifications and duties, and providing a schedule of compensation for the performance of their duties;

xi) Land banking, assembling parcels, and leasing, purchasing, or otherwise acquiring land for housing development;

xii) Selling or disposing of land or assets consistent with the agency's purpose and eligible activities or where a parcel under the agency's control is deemed to be inappropriate for housing development;

xiii) Collecting data on housing production and monitoring progress on meeting regional and state housing goals;

xiv) Providing support and technical assistance to local governments in relation to producing and preserving affordable housing; and

xv) Allocating and deploying capital and generated fees or income in the form of grants, loans, equity, interest rate subsidies, and other financing tools to the cities and other public agencies within the Los Angeles County area, and private affordable housing developers to finance affordable housing development, preserve and enhance existing affordable housing, and fund tenant protection programs, pursuant to this title, in accordance with applicable constitutional requirements.

d) Prohibits LACAHSA from regulating or enforcing land use decisions and acquiring property by eminent domain.

6) Establishes parameters for expenditure of revenues generated, as follows:

   a) Requires LACAHSA to use revenues it generates for the construction of new affordable housing, affordable housing preservation, tenant protection programs, planning and technical assistance, and other purposes, as specified;

   b) Requires allocations to be approved by the LACAHSA board;

   c) Requires LACAHSA to distribute regional housing revenue in the form of a grant, loan, or other financing tool over five year periods as follows:

      i) A minimum of 40% of the annual programmatic budget must be spent on affordable housing creation, preservation, and ownership, as specified. Of the funding available for affordable housing production:

         (1) 30% must be allocated to LACAHSA;

         (2) 70% must be allocated based on very low income and low-income regional housing needs assessment goals to the four largest cities in Los Angeles County (Los Angeles, Long Beach, Santa Clarita, and Glendale), councils of government in Los Angeles County, and unincorporated Los Angeles County; and

         (3) At least 5% of LACAHSA's allocation must utilized for technical assistance grants to cities with less than 50,000 residents;

      ii) A minimum of 30% of the total annual programmatic budget must be spent on renter protection and support programs as specified. Provides that, of the funding available for renter protections:

         (1) 30% must be allocated to LACAHSA;

         (2) 70% must be allocated on a per low-income renter household basis to the four largest cities in Los Angeles County (Los Angeles, Long Beach, Santa Clarita, and Glendale), councils of government in Los Angeles County, and unincorporated Los Angeles County; and

         (3) At least 5% of LACAHSA's allocation must utilized for technical assistance grants to cities with less than 50,000 residents.

      iii) Fifteen percent of the total annual programmatic budget must be allocated as "annual priorities," and these funds may be used for any

eligible activity outlined in this bill as part of the annual expenditure plan;

iv) At least 5% of the total annual programmatic budget, excluding any bond indebtedness, must be used for technical assistance, research, and policy development, as specified;

v) Not more than 10% of the total annual programmatic budget may be used for administrative and operations expenses associated with LACAHSA; and

vi) No earlier than five years after approval of any funding measures, the board, subject to consultation with the citizens' oversight committee, may change any of the minimum requirements above if both allocated funding has been unspent in a given category across multiple years and the board adopts a finding that the region's needs in a given category differ from those requirements. The board is required to approve the finding by a two-thirds vote.

7) Establishes the following labor standards:

a) Any construction or rehabilitation project receiving funding or financing from the agency, a measure proposed by the agency, or a joint powers authority of which the agency is a member, constitutes a public work for which prevailing wages must be paid;

b) A project with 40 units or greater is eligible to receive funding or financing from the agency, a measure proposed by the agency, or a joint powers authority of which the agency is a member, only if all construction and rehabilitation is subject to the City of Los Angeles Department of Public Works Project Labor Agreement, as specified; and

c) If a specific countywide project labor agreement is negotiated with mutual agreement between the Los Angeles/Orange Counties Building and Construction Trades Council and the Southern California Association of Nonprofit Housing and approved by the agency, then a project with 40 units or greater is eligible to receive funding or financing from the agency, a measure proposed by the agency pursuant to subdivision, or a joint powers authority of which the agency is a member, only if the construction and rehabilitation complies with the specific countywide project labor agreement rather than the Department of Public Works Project Labor Agreement.

8) Requires the board of supervisors of Los Angeles County to hold a special election, as specified, if LACAHSA or a qualified voter initiative proposes a measure consistent with this bill that will generate revenues.

Background

In 2019, the Legislature passed and the Governor signed AB 1487 (Chiu), which created a new regional option to address the lack of affordable housing in the San Francisco Bay Area. Specifically, that bill provided the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC) – acting as the BAHFA – with new tools to raise billions of dollars to fund the production, preservation, and protection of affordable housing. It enabled the region to support local jurisdictions by providing additional funding to address infrastructure and other needs associated with new residents. That bill was formulated in partnership with the Bay Area's local elected leaders and other regional leaders to collectively ensure that the entire Bay Area is on track to provide affordable housing efficiently and effectively to all residents. That bill set forth the governing structure and powers of the board, allowable financing activities, and allowable uses of the revenues generated. Its purpose was to raise, administer, and allocate funding and provide technical assistance at a regional level for tenant protection, affordable housing preservation, and new affordable housing production. It also established MTC as the board of the authority, and ABAG as the executive board, making ABAG the lead agency.

Comments

Recreating the wheel? Many of the tools provided by this bill, including special taxes and bonds, are tools that Los Angeles County and its cities already have. However, not all of these programs serve the entire county. SB 679 creates another regional body on top of the work that cities, the County, and other local agencies are already doing.

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

According to the Assembly Appropriations Committee:

- Estimated initial costs of over $1 million annually, at a minimum, to provide staffing and resources to establish and support LACAHSA until it places a revenue generating proposal on the ballot that is passed by the voters and the agency becomes self-sufficient. These costs would increase as the agency hires more staff to support its functions. Since the bill does not specify a revenue

source or mechanism for startup costs, initial administrative costs would be borne by the General Fund. LACAHSA is modeled after the Bay Area Housing Finance Authority (BAHFA), but the statute establishing BAHFA required the authority to be governed by the Metropolitan Transportation Commission (MTC) governing board and staffed by MTC's existing staff.

- Local costs related to elections procedures on behalf of the LACAHSA are potentially reimbursable by the state, subject to a determination by the Commission on State Mandates.

SUPPORT: (Verified 8/24/22)

United Way of Greater Los Angeles (source)
Abundant Housing LA
Alliance for Community Transit - Los Angeles
Alliance of Californians for Community Empowerment Action
Ascencia
Central City Association of Los Angeles
Chrysalis Center, the
City of Beverly Hills
City of Maywood
Climate Resolve
Dignity and Power Now
Disability Community Resource Center
Downtown Women's Center
Ground Game LA
I Did Something Good Today Foundation
Imagine LA
Inclusive Action for the City
Inner City Law Center
Interfaith Solidarity Network
Justice LA
Koreatown Immigrant Workers Alliance
LA Forward
LA Voice
Long Beach Gray Panthers
Los Angeles Christian Health Centers
Los Angeles Community Action Network
Los Angeles LGBT Center
Pacific Urbanism
PATH

Public Counsel
SEIU California
Skid Row Housing Trust
Social Justice Learning Institute
St. Joseph Center
State Building and Construction Trades Council of Ca
T.R.U.S.T. South LA
The Center in Hollywood
The People Concern
Union Station Homeless Services
Valley Beth Shalom- Homelessness Task Force
Venice Community Housing Corporation

OPPOSITION: (Verified 8/24/22)

San Gabriel Valley Regional Housing Trust

ARGUMENTS IN SUPPORT: According to the author, "Housing for low-income people across L.A. County is severely overcrowded, racially segregated, and often not linked to high quality resources like transit, jobs, schools or parks. The COVID-19 pandemic has made even clearer what we already knew to be true: our Black, Latino, and low-income communities are being forced to make untenable choices in where and how they live. 79% of Extremely Low-Income households in L.A. County are paying more than half of their income on housing costs compared to just 3% of moderate-income households. SB 679 creates the L.A. County Affordable Housing Solutions Agency: a single, unified approach to addressing housing instability in our county. This bill offers a comprehensive way forward for creating housing affordability across the county, focusing on households that make an average salary or below, in particular extremely and deeply low-income people. These are the people who are most impacted by the housing crisis. With a large-scale countywide affordable housing production strategy, combined with proven renter support programs—like an emergency rent relief funding source and establishing a robust countywide right to counsel— SB 679 represents a transformative opportunity to change the trajectory of L.A. County's future."

ARGUMENTS IN OPPOSITION: According to the San Gabriel Valley Regional Housing Trust (SGVRHT), writing on the May 17, 2021 version of the bill, SB 679 should provide funds directly to the SGVRHT, the amount of funds administered to cities and subregions should be increased, specific affordability

requirements should be replaced with programmatic goals, and the bill should include transparency measures.

ASSEMBLY FLOOR: 42-19, 8/24/22
AYES: Aguiar-Curry, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Mike Fong, Friedman, Gabriel, Eduardo Garcia, Gipson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, McCarty, McKinnor, Mullin, Muratsuchi, Nazarian, O'Donnell, Quirk, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Choi, Cooley, Cunningham, Megan Dahle, Davies, Fong, Gallagher, Kiley, Lackey, Mathis, Mayes, Nguyen, Patterson, Petrie-Norris, Salas, Seyarto, Smith, Valladares, Voepel
NO VOTE RECORDED: Alvarez, Arambula, Bauer-Kahan, Bigelow, Chen, Cooper, Daly, Flora, Cristina Garcia, Gray, Grayson, Irwin, Maienschein, Medina, Quirk-Silva, Ramos, Rodriguez, Villapudua, Waldron

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
8/24/22 19:40:32

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

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UNFINISHED BUSINESS

Bill No: SB 755
Author: Roth (D)
Amended: 8/15/22
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 4/26/21
AYES: Cortese, Ochoa Bogh, Durazo, Laird, Newman

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/20/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SENATE FLOOR: 39-0, 6/1/21
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Melendez

ASSEMBLY FLOOR: 75-0, 8/25/22 - See last page for vote

SUBJECT: Workforce development: training-related job placement: reporting

SOURCE: Author

DIGEST: This bill requires the Employment Development Department to work with the California Workforce Development Board to measure and report specified information regarding aggregate labor market outcomes of individuals receiving training services through the workforce system. This bill requires, among other things, that the board and department create a plan to use existing data to match relevant employee occupational data, employee place of employment data, and employee hours worked data, to persons who enroll in job training services, and to outline various objectives. This bill requires the board and department, upon appropriation by the Legislature, to implement the plan, and within 2 years of the

appropriation, to summarize and provide an initial report of their findings to specified committees of the-Legislature.

Assembly Amendments 1) restructure some of the requirements in the bill; 2) struck an unnecessary reporting requirement provision that is already captured in the bill; 3) delay the reporting due dates in the bill to 2024; 4) require the board and EDD to develop the plan for meeting these requirements, but specified that they must implement the plan only upon appropriation by the Legislature; and 5) require the board and EDD, two years after the appropriation, to summarize and report their findings to the Legislature.

ANALYSIS:

Existing law:

1) Establishes the California Workforce Development Board (CWDB) as the body responsible for assisting the Governor in the development, oversight, and continuous improvement of the workforce system. (Unemployment Insurance Code §14010).

2) Requires that the state's workforce system operate in a manner that is data driven and evidence based when setting priorities, investing resources, and adopting practices. (Unemployment Insurance Code §14000(b)(3)).

3) Requires that workforce system be outcome oriented and accountable, by measuring results for program participants, including outcomes related to program completion, employment, and earnings. (Unemployment Insurance Code §14000(b)(5))

4) Requires the California Workforce Development Board to develop a workforce metrics dashboard that measures the state's human capital investments in workforce development to understand the impact of these investments on the labor market. The workforce metrics dashboard is required to do the following:

    a) Provide a status report on credential or degree attainment, training completion and participant earnings from workforce education and training programs.
    b) Provide demographic breakdowns, including, to the extent possible, race, ethnicity, age, gender, veteran status, wage and credential or degree outcomes, and information on outcomes in different industry sectors.

c) Measure the performance of the following workforce programs: community college career technical education, the Employment Training Panel, Title I and Title II of the federal Workforce Investment Act of 1998 (Public Law 105-220), Title I and Title II of the federal Workforce Innovation and Opportunity Act of 2014 (Public Law 113-128), Trade Adjustment Assistance, and state apprenticeship programs.
d) Measure participant earnings in California, and to the extent feasible, in other states. (Unemployment Insurance Code §14013(i)).

5) Authorizes the Employment Development Department (EDD) to share wage and employment data, under specified conditions, for a variety of purposes, including the evaluation of workforce programs specified in Unemployment Insurance Code section 1095. (Unemployment Insurance Code §1095).

6) Requires Local Workforce Development Boards, subject to specified conditions, to spend an amount equal to at least 30 percent of their adult and dislocated worker federal WIOA formula fund allocations on workforce training programs. (Unemployment Insurance Code §14211).

7) Requires EDD to report, as specified, each year, to the Governor, the Legislature, and the CWDB, the extent to which Local Workforce Development Boards are meeting state mandated training expenditure requirements. (Unemployment Insurance Code §14211).

8) Requires Local Workforce Development Boards to submit a corrective action plan to EDD when they are not meeting training expenditure requirements. (Unemployment Insurance Code §14211).

This bill:

1) Requires the CWDB and the EDD to work collaboratively to measure and report on "training-related job placement" outcomes for individuals receiving job training services provided through the workforce system, including all job training services funded by Title I of the Workforce Innovation and Opportunity Act and through grants administered by CWDB, regardless of the source of the funding.

2) Defines "Training-related job placement" to mean employment in an occupation or occupations directly related to the occupation or occupations for which the job training curricula is designed. (*Current reporting outcomes for*

job training program participants do not measure whether employment is in an occupation(s) related to the training program of study.)

3) For purposes of measuring training-related job placement outcomes and gathering data to report on those outcomes, requires the CWDB and EDD to work collaboratively to create a plan to use the existing unemployment insurance tax data collection infrastructure used to secure quarterly wage data from employers, to match relevant employee occupational data, employee place of employment data, and employee hours worked data, to persons who enroll in job training services.

4) Requires that the plan include timelines, budget, funding constraints, and an outline of any additional recommended or necessary statutory changes to collect relevant data. The plan shall also outline the means for all of the following:

   a) Requiring local workforce development boards and grantees of board-administered grants to collect and report industry and occupation-specific data for all persons who enroll in job training services, as specified.

   b) Developing and implementing a method to measure the second- and fourth-quarter prior earnings of a person, who is enrolled in a job training service, for purposes of measuring the person's increase in earnings following their participation in and exit from a program.

   c) Developing and implementing a means to measure wage and employment outcomes for a person following that person's participation in a job training service during the second, fourth, eighth, and twelfth quarters following participation in and exit from a program for purposes of measuring the person's increase in earnings over time.

   d) Calculating, by region, industry, occupation, and job training service provider, the wages, wage gains, employment rates, and training-related job placement rates at the second, fourth, eighth, and twelfth quarters following a person's participation in and exit from a program.

   e) Calculating by region, industry, occupation, and job training service provider, the rate of persons who participated in a job training service and who became employed at a wage at or above a living wage for the region. This calculation shall take into account the cost of living in the regional

labor market where the person works or lives. The employment rate calculation shall be calculated at the second, fourth, eighth, and twelfth quarters following a person's participation in and exit from a program.

f) Calculating program completion, credential attainment, and measureable skills gains rates by job training service provider, industry, occupation, and region.

g) Determining, by region (including the cost of living in the region where the person works or lives), industry, occupation, and job training service provider, whether participation in a job training service, completion of a job training service, credential attainment, and measurable skills gains have an empirically verifiable impact on assisting persons in achieving employment, training-related job placement, wages, and wage gain that places those persons at or above a living wage for the region.

h) Developing and implementing a means of working with the local workforce development boards to notify, prior to their enrollment in a job training service, a person seeking to enroll in those services of the board's and Employment Development Department's findings on the efficacy of those services, particularly with respect to the likelihood of training related job placement, the likelihood of job placement at or above a regional living wage, and the likelihood of wage gains at the second, fourth, eighth, and twelfth quarters following a person's participation in and exit from a program. Those findings shall be disaggregated by region, job training services provider, industry, and occupation.

i) Requires the CWDB and EDD to submit this plan to the Legislature no later than January 1, 2024.

5) Requires the CWDB and EDD, upon appropriation by the Legislature, to implement the reporting requirements plan and two years after the appropriations, requires them to summarize and provide to the Legislature an initial report on the status of the implementation plan and the initial findings.

6) Requires the CWDB and EDD to annually update and incorporate their findings on training program provider performance outcomes in an existing legislative report pertaining to local workforce development board training expenditures.

7) Specifies that if any of the reporting requirements cannot be implemented absent further statutory change, the remaining requirements continue in effect.

8) Provides definitions for the following terms: "job training services," "local workforce development board," "participation in a job training service," "program" and "training-related job placement."

Background

Wage and employment outcome measures for workforce programs are typically based on data collected through the UI "base wage" file. The provisions of this bill would necessarily require that the data collected through the "base wage" file be augmented to include occupational code data not currently collected in California.

Many other states collect additional data elements in the base wage file including demographic information, occupational codes, hours worked, and location of employment. Currently Alaska and Louisiana mandate the collection of occupational data for workers through the base wage file. In recent years public and private sector actors, including the U.S. Department of Labor and the U.S. Chamber of Commerce, have embarked on initiatives to find ways to collect more information about the labor market using the base wage file and other means.

[NOTE: Please see Senate Labor, Public Employment and Retirement Committee analysis for background information on domestic workers and the workplace.]

Comments

Need for the bill? According to the author, "Existing means of measuring workforce program outcomes are limited in that they do not measure whether program participants who receive training services are a) getting jobs in the occupations for which they trained, b) are on a path of career advancement as measured by income growth over time, and c) are being placed in jobs that provide a living wage in the regional labor markets in which they live or work. Moreover, individuals seeking training opportunities provided by workforce programs have limited access to the foregoing types of data. This bill provides the means to develop the systematic measurement of training program performance outcomes with respect to the following: a) the likelihood of employment in the occupations for which program participants train, b) the likelihood of employment in living wage jobs in the relevant regional labor market, c) the prospects for wage gain over time associated with these programs."

Related/Prior Legislation

SB 753 (Roth, Chapter 550, Statutes of 2021) gave statutory authority to the EDD to share wage and employment data with the CWDB to evaluate the efficacy of the workforce grant programs it administers.

AB 1336 (Mullins, Chapter 211, Statutes of 2017) tasked the CWDB with determining statistically rigorous approaches to measure the labor market impacts of workforce development programs participating in the workforce metrics dashboard report required under AB 2148 (Mullins, Chapter 385, Statutes of 2014).

AB 2148 (Mullin, Chapter 385, Statutes of 2014) required the CWDB to assist the Governor in the development of a workforce metrics dashboard to measure the labor market outcomes of specified workforce development programs, including federally funded Workforce Innovation and Opportunity Act Title I and Title II programs, Community College career education programs, the Employment Training Panel's incumbent worker training programs, and apprenticeship programs over seen by the Division of Apprenticeship Programs.

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

According to the Assembly Appropriations Committee:

1) Costs of approximately $450,000 annually to CWDB for three new staff positions to undertake this collaboration: one Research Data Specialist to research and design new required metrics, work with EDD on data collection methodology and analyze resulting data; one analyst to design and implement business rules surrounding data capture; and one analyst to oversee implementation of new polices. (General Fund (GF))

2) One-time costs of $11.9 million to EDD to begin collecting occupational data from employers. EDD notes collecting such data would be a significant change in the quarterly tax reporting process for employers, necessitating a change to forms and information technology systems, significant staff training and new outreach efforts to employers and payroll/tax reporting companies. EDD further anticipates ongoing annual costs of $2.8 million for additional staff positions to collect, verify and process new occupational data and share data across programs and systems. (GF)

Included in these one-time and ongoing costs are vendor and staffing costs to update the CalJOBS case management system utilized by federally-funded Workforce Innovation and Opportunity Act (WIOA) programs, including measures to verify the new data required by this bill does not impact federal reporting requirements. EDD notes existing federal WIOA or UI program funds cannot be used for this bill's purposes.

3) By imposing new requirements on LWDBs, this bill may impose a state-mandated local program with costs of an unknown amount to the state. To the extent the Commission on State Mandates determines the provisions of this bill create a new program or impose a higher level of service on a local agency, the local agency could claim reimbursement of those costs. (GF)

SUPPORT: (Verified 8/25/22)

None received

OPPOSITION: (Verified 8/25/22)

None received

ASSEMBLY FLOOR: 75-0, 8/25/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Cunningham, Gray, Irwin, Salas

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8/26/22 15:48:02

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

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UNFINISHED BUSINESS

Bill No: SB 793
Author: Wiener (D)
Amended: 8/18/22
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 15-0, 4/20/21
AYES: Dodd, Nielsen, Allen, Archuleta, Becker, Borgeas, Bradford, Glazer, Hueso, Jones, Kamlager, Melendez, Portantino, Rubio, Wilk

SENATE APPROPRIATIONS COMMITTEE: 6-1, 5/20/21
AYES: Portantino, Bradford, Jones, Kamlager, Laird, Wieckowski
NOES: Bates

SENATE FLOOR: 32-0, 1/10/22
AYES: Allen, Archuleta, Atkins, Borgeas, Bradford, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Newman, Nielsen, Pan, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NO VOTE RECORDED: Bates, Becker, Caballero, Dahle, Min, Ochoa Bogh, Portantino, Wilk

ASSEMBLY FLOOR: 74-0, 8/25/22 - See last page for vote

SUBJECT: Alcoholic beverages: music venue licenses

SOURCE: National Independent Venue Association

DIGEST: This bill authorizes the Department of Alcoholic Beverage Control (ABC) to issue a music venue license that would allow the licensee to sell beer, wine, and distilled spirits for consumption on the premises in a music entertainment facility, as defined

Assembly Amendments (1) delete language in the bill that would have authorized specified alcohol licensees to sell alcoholic beverages for consumption within an entertainment zone, as defined, and (2) add chaptering out language.

ANALYSIS:

Existing law:

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

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

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

This bill:

1) Authorizes the Department of ABC to issue a music venue license which would allow the licensee to sell beer, wine, and distilled spirits for consumption upon the premises only, as specified.

2) Provides that the music venue licensee may sell, serve, and permit consumption of alcoholic beverages only during the time period from two hours before a live performance until one hour after the live performance.

3) Defines a "music entertainment facility" to mean a publicly or privately owned live performance venue, concert hall, auditorium, or an enclosed arena where music or entertainment events are presented for a price of admission. The facility does not have to be used exclusively for music or entertainment events.

4) Provides that a venue is not a "music entertainment facility" unless it satisfies all of the following criteria:

    a) The facility has defined performances and audience spaces.

    b) The facility includes mixing equipment, a public address system, and a lighting rig.

c) The facility employs one or more individuals to serve a number of specified roles, including a sound manager, promoter, stage manager and a box office manager.

d) There is a paid ticket or cover charge to attend performances and artists are paid or do not play for free or solely for tips, except for fundraisers or similar charitable events.

e) Performances at the facility are marketed through listings in printed or electronic publications, on websites, by mass email, or on social media.

5) Provides that only licensees with a music venue license are authorized to sell alcoholic beverages upon the premises of the music entertainment facility.

6) Prohibits a music venue license from being transferred or sold for a purchase price in excess of the original fee paid for that license.

7) Provides that the issuance of a music venue license should not be subject to provisions of the ABC Act, which limit the number of alcoholic licenses in a specific county.

8) Allows a licensee to permit a person under 21 years of age into the music entertainment facility. This authority does not authorize the on-sale licensee to sell, furnish, or give any alcoholic beverages to a person under 21 years of age, or to engage in any other activity not otherwise authorized by the provisions of this bill.

9) Authorizes a person providing alcoholic beverage service at a music entertainment facility pursuant to another type of on-sale license to exchange that license for a music venue license, as specified.

Comments

Purpose of this bill. According to the author's office, "SB 793 will provide much needed relief for California's independent venues to ensure they are able to recover economically after the COVID-19 pandemic by creating a new license category for music entertainment venues. The pandemic has had a devastating impact on California's live entertainment venues, which were among the first businesses required to close in March 2020 and will likely be among the last to reopen. California state law does not offer a type of liquor license tailored to the unique needs of the state's live entertainment venues. As a result, venue operators face challenges in accessing liquor licenses and complying with their operating requirements."

Music Venue license. Under current law there is no license that is specific to a music venue, therefore current owners of such facilities would need to obtain one of a number of other licenses that are issued by the Department of ABC.

The author argues that none of these licenses are uniquely tailored to the particular needs of such venues.

For example, right now an individual seeking to operate a venue similar to what this bill sets up could seek an on-sale general, eating place license, or Type 47 license. A Type 47 license is usually obtained by restaurant owners. It allows the licensee to sever wine, beer, and distilled spirits as well as allow a person under the age of 21 to enter the facility, however licensee is required to maintain a bona-fide public eating place. In addition, in places like San Francisco, where these licenses are scarce, the licensee would likely need to purchase such a license on the open market for hundreds of thousands of dollars.

If an individual does not want to operate a bona-fide public eating place, but still wants to have the privilege of serving wine, beer, and distilled spirits, the individual could seek to obtain a bar license. However under that license individuals under the age of 21 would not be able to enter the venue regardless of whether alcohol was being served or not. This bill seeks to solve those issues by creating the music venue license, or Type 90 License, as an on-sale general license that would allow the licensee to sell beer, wine, and distilled spirits for consumption on the premises of the music entertainment facility.

Rather than require the venue to have a minimum seating capacity, this bill instead requires the venue to have a defined performance and audience space, mixing equipment, a public address system, and a lighting rig. The venue must also employ individuals in the following roles: a sound engineer, a booker, a promoter, a stage manager, and a box manager. While this bill does authorize the licensee to permit a person under 21 years of age into the music entertainment facility, this bill does make it clear that this does not authorize the licensee to sell, furnish, or give any alcoholic beverage to a person under 21 years of age.

Much like with any other license, the Department of ABC could establish a number of conditions on every licensee that applies for a music venue license to ensure that public health and safety is protected.

Related/Prior Legislation

SB 314 (Wiener, Chapter 656, Statutes of 2021) authorized the Department of ABC to, for 365 days from the date the Covid-19 state of emergency is lifted,

allow licensees to continue to exercise license privileges in an expanded licensed area authorized pursuant to a Covid-19 temporary catering permit, as provided. In addition, the bill allowed a licensed manufacturer to share a common licensed area with multiple licensed retailers, as specified. Further, the bill extended from 30 to 90 days by which a licensee must apply to the Department of ABC for specified event, which permits specified licensees to provide their own alcohol free of charge at an invitation only event. Finally, the bill increased the number of times, from 24 to 52 in a calendar year, that the Department of ABC can issue a caterer's permit for use at any one location.

SB 58 (Wiener, 2019) would have authorized the Department of ABC to create a pilot program to issue an additional hours license to an on-sale licensee in a qualified city that would allow the selling, giving, or purchasing of alcoholic beverages at the licensed premises between the hours of 2 a.m. and 3 a.m., upon completion of specified requirements. (Died on the Assembly Floor)

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

According to the Assembly Appropriations Committee, costs of an unknown, but potentially significant amount, to ABC to issue and exchange new music venue licenses, likely offset by corresponding fee revenue. ABC cannot estimate how many new license applications ABC may receive or how many of the approximately 20,000 existing Type 47 and Type 48 licensees may request to exchange their current license for this new license type, although only those meeting the definition of a music entertainment facility are eligible. Any new enforcement costs are likely minor and absorbable, since most music entertainment facilities could likely obtain or already have an existing license type.

SUPPORT: (Verified 8/17/22)

National Independent Venue Association (source)
Board of Supervisors of the City and County of San Francisco
California Downtown Association
Diageo
Independent Hospitality Coalition

OPPOSITION: (Verified 8/17/22)

Alcohol Justice
Alcohol Policy Panel of San Diego County
California Alcohol Policy Alliance
Rethinking Alcohol and Other Drugs

ARGUMENTS IN SUPPORT: According to the National Independent Venue Association, "when the dust settles after the pandemic, many of our local businesses will be one step away from bankruptcy, and easing these restrictions will be critical to their success after the pandemic and beyond. It is California's duty to ensure that our small restaurants and bars can remain open to the public for years to come by creating new and flexible ways to own and operate a business within the hospitality industry. We cannot continue weighing down our small businesses with unnecessary and outdated regulations that do not help our businesses or serve the public. SB 793 will act as a lifeline for many small businesses as we move out of the strict stay-at-home orders in the future."

ARGUMENTS IN OPPOSITION: According to the California Alcohol Policy Alliance, "SB 793 will effectively force the ABC to reduce important regulations. It will significantly increase the availability of alcohol to an expanding and unknown number of locations, events, and public spaces, thus extensively threatening public health and safety."

ASSEMBLY FLOOR: 74-0, 8/25/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Kiley, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Cunningham, Gray, Irwin, Lackey, Salas

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8/26/22 15:48:03

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

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UNFINISHED BUSINESS

Bill No: SB 837
Author: Umberg (D)
Amended: 8/18/22
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 17-0, 3/22/22
AYES: Gonzalez, Bates, Allen, Archuleta, Becker, Cortese, Dahle, Dodd, Limón, McGuire, Melendez, Min, Newman, Rubio, Skinner, Wieckowski, Wilk

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/19/22
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SENATE FLOOR: 39-0, 5/25/22
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Hertzberg

ASSEMBLY FLOOR: 77-0, 8/22/22 - See last page for vote

SUBJECT: Driver's licenses: veteran designation

SOURCE: Author

DIGEST: This bill repeals the $5 fee a veteran is required to pay in order to have the word "VETERAN" printed on their driver's license or identification card as per existing law.

Assembly Amendments add contingent enactment language with SB 1193 to avoid chaptering out issues.

ANALYSIS:

Existing law:

1) Requires the Department of Motor Vehicles (DMV) to issue a driver's license to an applicant when the DMV determines that the applicant is lawfully entitled to a license.

2) Allows an in-person applicant for a driver's license or identification card to request the word "VETERAN" be printed on the face of the driver's license or identification card, subject to certain requirements, including verification of veteran status and payment of a $5 fee, which the department is authorized to increase by regulation up to $15.

3) Prohibits a fee from being charged for the request if made by a person who has been determined to have a current income level that meets the eligibility requirements for specified assistance programs, or a person who can verify their status as a homeless person, in accordance with specified provisions.

This bill repeals the $5 fee a veteran is required to pay to have their veteran status designated on their driver's license or identification card.

Comments

1) *Purpose.* According to the author, "SB 837 will take away the current fee the DMV charges to designate a veteran's status on their driver's license or identification card. California needs to make veteran's resources more accessible. There are still many veterans in the state who are not aware that they may be eligible for benefits. By making this designation more accessible and affordable, we can ensure that more veterans will become connected with their benefits. California has historically fallen short on our promises to improve veterans' access to programs. For example, California was the second-to-last state in the nation to allow for a veterans' designation on their driver's license. Removing this nominal charge will only make it easier for veterans to get this designation on their licenses and increase their awareness and accessibility to veterans' benefits."

2) *Connecting veterans to benefits.* Allowing veterans to obtain a driver's license or identification card with a veteran designation enables veterans to swiftly and efficiently identify themselves and access services and benefits they are entitled to, including housing, health, employment, and educational aid. Removing the $5 fee may further incentivize veterans to include the designation on their

driver's license or identification cards and permit them to access the benefits they are entitled to more easily and more often.

Likewise, a key goal behind the legislation is to induce veterans to come into their local county veteran's service office (CVSO), which is required to verify their veteran status before they go into the DMV to obtain the designation. The CVSO plays a critical role in connecting the veterans to all federal, state, and local benefits for which they are eligible.

3) *Loss of DMV Revenue.* According to the DMV, from implementation on November 11, 2015, to January 1, 2022, the DMV has issued 243,754 veteran designations. This means that 30,000-35,000 veterans apply for the designation per year. On average, the DMV collects $150,000-175,000 from the $5 veteran fee which goes into the Motor Vehicle Account (MVA). The MVA pays for the DMV and the California Highway Patrol and is poised to go into a deficit. The DMV has expressed that because the designation is a one-time fee and there is no fee upon renewal, the annual volume and associated revenue will decrease over time with or without the removal of the $5 fee.

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

According to the Assembly Appropriations Committee, the fiscal impact is unknown.

SUPPORT: (Verified 8/22/22)

State Building & Construction Trades Council of California

OPPOSITION: (Verified 8/22/22)

None received

ASSEMBLY FLOOR: 77-0, 8/22/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca

Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Davies, Levine

Prepared by: Randy Chinn / TRANS. / (916) 651-4121
8/22/22 19:59:03

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

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UNFINISHED BUSINESS

Bill No: SB 848
Author: Umberg (D)
Amended: 8/18/22
Vote: 21

SENATE JUDICIARY COMMITTEE: 10-0, 4/5/22
AYES: Umberg, Borgeas, Caballero, Durazo, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Gonzalez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 37-0, 5/24/22
AYES: Allen, Atkins, Bates, Becker, Borgeas, Bradford, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Archuleta, Caballero, Hertzberg

ASSEMBLY FLOOR: 74-0, 8/25/22 - See last page for vote

SUBJECT: Civil actions: parties and postponements

SOURCE: Author

DIGEST: This bill extends, to January 1, 2026, the sunset on the statutory authorization for specified remote appearances in specified civil court proceedings, extends the use of remote appearances to adoption finalization hearings, prohibits the use of remote appearances for testimony, hearings, and proceedings in juvenile justice cases and specified commitment proceedings; imposes reporting requirements on the superior courts and the Judicial Council of California to provide the Legislature with certain information relating to remote proceedings in civil cases; and removes the COVID-19-emergency-related sunset on the law

providing that, when a trial or arbitration is continued, the discovery deadlines are extended for the same length of time as the continuance.

Assembly Amendments authorize remote appearances in adoption finalization hearings and prohibit remote appearances for testimony, hearings, and proceedings in juvenile justice cases and specified commitment proceedings.

ANALYSIS:

Existing law:

1) Authorizes parties to civil cases, including self-represented parties and nonparties subject to discovery requests, to appear remotely at a proceeding, and for the court to conduct the proceeding remotely, when the party has provided notice to the court and all other parties of the intent to appear remotely, subject to the limitations in 4)-7). (Code Civ. Proc. § 367.75(a).)
   a) A court is prohibited from requiring a party to appear remotely. (Code Civ. Proc. § 367.75(f), (g).)
   b) A court permitting remote appearances must ensure that technology in the courtroom enables all parties, whether appearing remotely or in person, to fully participate in the conference, hearing, or proceeding. (Code Civ. Proc. § 367.75(f).)
   c) Separate procedures are set forth for remote appearances in juvenile dependency proceedings, at 9).

2) Authorizes a court to require an in-person appearance by a party or witness in a civil proceeding if any of the following conditions is present:
   a) The court does not have adequate technology to conduct the proceeding remotely.
   b) Although the court has adequate technology, the quality of the technology or the audibility at the proceeding prevents the effective management or resolution of the proceeding.
   c) The court determines, on the facts of the specific proceeding, that an in-person appearance would materially assist in the determination of the proceeding or in the effective management or resolution of the particular case. With respect to expert witnesses, however, an expert witness must be permitted to appear remotely absent good cause to compel in-person testimony.
   d) The quality of the technology or audibility of the proceeding inhibits the court reporter's ability to accurately prepare a transcript of the proceeding.
   e) The quality of the technology or audibility of the proceeding prevents an attorney from being able to provide effective representation to their client.

f) The quality of the technology or audibility of the proceeding inhibits a court interpreter's ability to provide language access to a court user or authorized individual. (Code Civ. Proc. § 367.75(b).)

3) Authorizes a court, on its own motion or by motion of any party, to conduct a trial or evidentiary hearing, in whole or in part, through the use of remote technology, subject to the limitations of 4) above, unless an opposing party shows why a remote appearance or testimony should not be allowed.
   a) Except where law expressly provides otherwise, if the court conducts a trial in whole or in part through remote means, the official reporter or official reporter pro tempore must be physically present in the courtroom.

   b) Upon request, a court interpreter must be present in the courtroom. (Code Civ. Proc. § 367.75(d).)

4) Requires a court, prior to conducting remote proceedings, to have a process for a party, witness, official reporter or reporter pro tempore, court interpreter, or other court personnel to alert the judicial officer of technology or audibility issues that arise during the proceeding, and to require that a remote appearance by a party or witness have the necessary privacy and security appropriate for the proceeding. (Code Civ. Proc. § 367.75(e)(1)-(2).)

5) Requires a court to inform all parties, and particularly self-represented parties, about the potential technological or audibility issues that may arise when using remote technology, and which may require a delay or halt to the proceeding; and to make information available to self-represented parties regarding the options for appearing in person and through remote technological means. (Code Civ. Proc. § 367.75(e)(3).)

6) Provides that, subject to the technological and qualitative limitations in 4), the statute does prohibit attorneys for represented parties from stipulating to the use of remote appearances.

7) Authorizes a juvenile dependency proceeding to be conducted in whole or in part as follows:
   a) Any person authorized to be present at the proceeding may request to appear remotely.
   b) Any party to the proceeding may request that the court compel the physical presence of a witness or party.
   c) A witness may appear remotely only with the consent of all parties and if the witness has access to the appropriate technology.

   d) A court may not require a party to appear through the use of remote technology.
   e) The confidentiality requirements that apply to an in-person juvenile dependency proceeding also apply in a juvenile dependency proceeding conducted through the use of remote technology. (Code Civ. Proc. § 367.75(h).)

8) Requires the Judicial Council to adopt rules for the policies and procedures set forth above, including for deadlines by which a party must notify the court and other parties of its intent to appear remotely, and standards for a judicial officer to apply in determining whether a remote appearance is appropriate. (Code Civ. Proc. § 367.75(k).)

9) Provides that the remote technology provisions in 3)-10) will sunset on July 1, 2023. (Code Civ. Proc. § 367.75(l).)

10) Provides that, for the duration of the COVID-19 state of emergency declared by the Governor and 180 days thereafter, unless otherwise agreed to by the parties, a continuance or postponement of a trial or arbitration date also extends any deadlines that had not already passed as of March 19, 2020, applicable to discovery, including the exchange of expert witness information, mandatory settlement conferences, and summary judgment motions in the same matter. The deadlines are extended for the same length of time as the continuance or postponement of the trial date.

This bill:

1) Adds to the existing remote civil proceedings statute provisions authorizing a court to conduct an adoption finalization hearing in whole or in part through remote technology without finding that it is impossible or impracticable for either prospective adoptive parent to appear in person.
   a) The court may not require a party to appear remotely under 1).
   b) The confidentiality and privacy requirements that apply to an in-person adoption finalization hearing also apply to a remote or partially remote adoption finalization hearing.

2) Adds to the existing remote civil proceedings statute a requirement that each superior court shall report to Judicial Council on or before October 1, 2023, and annually thereafter, and the Judicial Council shall report to the Legislature on or before December 31, 2023, and annually thereafter, to assess the impact of technology issues or problems affecting remote civil proceedings and all purchases and leases of technology or equipment to facilitate civil remote

conferences, hearings, or proceedings, specifying all of the following for each annual reporting period:
   a) The number of civil proceedings conducted with the use of remote technology.
   b) Any superior court in which technology issues or problems occurred.
   c) The superior courts in which remote technology was used.
   d) The types of civil trial court conferences, hearings, or proceedings in which remote technology was used.
   e) The cost of purchasing, leasing, or upgrading remote technology.
   f) The type of technology and equipment purchased or leased.

3) Extends the sunset on the remote technology provisions, including the provisions in 1)-2), to January 1, 2026.

4) Prohibits testimony, conferences, hearings, and proceedings, in whole or in part, from being conducted using remote technology in any of the following cases until January 1, 2024:
   a) A juvenile court proceeding occurring pursuant to Welfare and Institutions Code Sections 601 or 602.
   b) An extension of juvenile commitment pursuant to Welfare and Institutions Code Section 1800.
   c) A proceeding involving a range of commitment types arising under the Penal Code and the Welfare Institutions Code.
   d) A proceeding related to an intellectually disabled and dangerous commitment authorized pursuant to Article 2 of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

5) Removes the COVID-19-emergency-related sunset on the provision establishing that discovery dates are extended for the same time period as the continuance of a trial or arbitration.

Comments

To prevent civil cases from grinding to a complete halt during the COVID-19 pandemic, many courts pivoted to remote proceedings, which allowed them to process cases while still complying with state and local health and safety orders. This pivot was first authorized by the Judicial Council's Emergency Rule 3, adopted on April 6, 2020.[1] Then, in 2021, the Legislature enacted SB 241

[1] Cal. Rules of Court, Appendix I, Emergency Rule 3; California Courts Newsroom, *Judicial Council Adopts New Rules to Lower Jail Population, Suspend Evictions and Foreclosures* (Apr. 6, 2020), *available at* **https://newsroom.courts.ca.gov/news/judicial-council-adopts-new-rules-lower-jail-population-suspend-evictions-and-foreclosures** (last visited Aug. 25, 2022).

(Umberg, Chapter 214, Statutes of 2021), which authorized remote proceedings in civil and juvenile dependency proceedings, subject to certain technological and procedural requirements.[2] The bill is scheduled to sunset on July 1, 2023.

This bill extends the sunset on the existing remote provisions, until January 1, 2026, in response to feedback from many litigants and the Judicial Council about the overall usefulness of remote appearances. As amended by the Assembly Appropriations Committee, however, the bill also narrows the scope of the remote appearance provisions by prohibiting remote testimony, conferences, hearings, and proceedings in juvenile justice cases and certain juvenile and civil commitment proceedings. The Judicial Council of California, the California Judges Association, the Children's Initiative, The California Sheriffs' Association, and 60 California judges now oppose the bill unless the newly added prohibitions are removed, noting, in the words of Judicial Council, that the amendments will have "a devastating impact on our state's most vulnerable populations."

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

According to the Assembly Appropriations Committee, the Judiciary Council of California (JCC) estimates costs of an unknown, but significant amount in excess of $150,000 (General Fund (GF)) to issue a report to the Legislature that includes information about: (1) the number of civil proceedings conducted with the use of remote technology, (2) any superior court in which technology issues or problems occurred, (3) the superior courts in which remote technology was used, (4) the types of civil trial court conferences, hearings, or proceedings in which remote technology was used, (5) the cost of purchasing, leasing, or upgrading remote technology, and (6) the type of technology and equipment purchased or leased. JCC notes it is already required to report its use of remote access in civil proceedings pursuant to Code of Civil Procedure Section 367.8 (AB 177 (Committee on Budget, Chapter 257, Statutes of 2021) but the reporting requirement in this bill requires JCC to collect data its case management system does not capture. As a result, JCC estimates significant costs to change its existing information technology to capture data like the use of remote proceedings at specific civil proceedings. JCC also notes it is already required to issue reports to the Legislature detailing its equipment purchases and how courts anticipate using the purchased equipment.

[2] *See* Code Civ. Proc., § 367.75.

SUPPORT: (Verified 8/25/22)

California Defense Council
California Judges Association
Consumer Attorneys of California
Encore Capital Group

OPPOSITION: (Verified 8/25/22)

California Court Reporters Association
California Federation of Interpreters
California Judges Association
California Labor Federation
California State Sheriffs' Association
Judicial Council of California
The Children's Initiative
60 California judges

ARGUMENTS IN SUPPORT: According to the Consumer Attorneys of California and California Defense Counsel, writing in support:

> Without an amendment to remove the sunset [on the remote appearances statute], next July the courts will be shifted back to March of 2020, before the courts were able to pivot to remote hearings and hybrid trials. The benefits have been widespread. Housing advocates and legal aid can help more individuals in need of representation through remote access, individuals seeking justice for domestic violence and child abuse cases may not have to face their abuser in person, and others can fight for justice even while courtrooms are fully or partially closed.
>
> Without remote court access working parents and children will be forced to continue taking time off of work and school to spend a full day in court instead of a fraction of their time attending remotely. Elderly individuals will not be able to attend their court proceedings as in person requirements would force them to choose between safety or justice. Civil plaintiffs struggle without access to the recovery they need to pay for medical treatment, or otherwise recover their lost wages or damages, and defendants are unable to resolve claims against them.

ARGUMENTS IN OPPOSITION: According to 60 California judges, writing in opposition, "The use of remote technology in juvenile justice court, necessitated initially by the public health crisis caused by the COVI-19 pandemic, has

ultimately improved how the juvenile court serves youth and their families and their communities, and promoted better outcomes. As judicial officers serving in, having served in, and/or familiar with the important work of juvenile justice courts throughout the state, we strongly encourage you to continue the use of remote technology in juvenile justice court proceedings. Currently, youth and their parents as well as other participants may choose to appear remotely when appropriate. We are gravely concerned that SB 848, as amended, would severely limit access to justice for youth, their families, justice partners, and victims of crime in these important cases by prohibiting the utilization of remote technology in all juvenile justice conferences, hearings, and proceedings. We are also concerned that SB 848 creates a disparity of access to justice for juvenile justice cases whereas remote technology is permitted in all civil proceedings, including dependency cases, and criminal cases."

ASSEMBLY FLOOR: 74-0, 8/25/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Cunningham, Gray, Irwin, Rodriguez, Salas

Prepared by: Allison Meredith / JUD. / (916) 651-4113
8/26/22 15:48:03

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

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UNFINISHED BUSINESS

Bill No: SB 867
Author: Laird (D), et al.
Amended: 8/15/22
Vote: 21

PRIOR SENATE VOTES NOT RELEVANT

SENATE NATURAL RES. & WATER COMMITTEE: 8-0, 8/24/22 (Pursuant to Senate Rule 29.10)
AYES: Stern, Jones, Allen, Eggman, Grove, Hueso, Laird, Limón
NO VOTE RECORDED: Hertzberg

ASSEMBLY FLOOR: 67-0, 8/22/22 - See last page for vote

SUBJECT: Sea level rise: planning and adaptation

SOURCE: Author

DIGEST: This bill requires a local government in the coastal zone or within the jurisdiction of San Francisco Bay Conservation and Development Commission to implement sea level rise planning and adaptation, as specified, and prioritize funding for local government projects that meet the state's goal for approval of the required plans, among other things.

Assembly Amendments replace the bill language entirely while retaining the focus on addressing sea level rise.

ANALYSIS:

Existing law:

1) Establishes the California Coastal Act of 1976 (Coastal Act)(Public Resources Code (PRC) §§30000 *et seq*.) which:

   a) Establishes the California Coastal Commission (Coastal Commission) in the California Natural Resources Agency.

b) Requires each local government in the coastal zone to prepare a local coastal program (LCP) for that portion of the coastal zone within its jurisdiction, as provided. Requires the precise content of each LCP to be determined by the local government in full consultation with the Coastal Commission and full public participation. (Public Resources Code PRC §30500)

c) Provides for the planning and regulation of development within the coastal zone.

   i) A person planning to perform or undertake any development in the coastal zone is required to obtain a coastal development permit from the Coastal Commission or local government enforcing a LCP certified by the Coastal Commission.

   ii) The coastal zone means the coastal land and waters of California, and includes the lands that extend inland generally 1,000 yards from the mean high tide line, as specified, with various exceptions including the San Francisco Bay.

   iii) Development means, among other things, the placement or erection of any solid material or structure on land or in water.

2) Establishes the San Francisco Bay Conservation and Development Commission (BCDC): (Government Code §§66600 *et seq*.)

   a) BCDC, among other things, is required to address emerging issues and to implement comprehensive plans for the preservation and protection of San Francisco Bay and the Suisun Marsh. BCDC has adopted the San Francisco Bay Plan which is a comprehensive plan that addresses the development of the bay and shoreline.

   b) Since 2008, BCDC has been the state agency responsible for leading the San Francisco Bay area's preparedness for, and resilience to, rising sea levels, tides and storm surge due to climate change.

This bill requires a local government in the coastal zone or within the jurisdiction of BCDC to implement sea level rise planning and adaptation, as specified, and prioritizes funding for local government projects that meet the state's goal for approval of the required plans, among other things. Specifically, this bill:

1) Requires a local government lying, in whole or in part, within the coastal zone or within the jurisdiction of BCDC to implement sea level rise planning and adaptation through submission either of the following, as applicable:

a) A local coastal program to the Coastal Commission, subject to approval by the Coastal Commission.

b) A subregional San Francisco Bay shoreline resiliency plan to BCDC, subject to approval by BCDC.

2) Requires the sea level rise planning and adaptation to include, at a minimum, all of the following:

a) Use of the best available science.

b) A vulnerability assessment that includes efforts to ensure equity for at-risk communities.

c) A sea level rise adaptation plan.

d) Identification of lead planning and implementation agencies.

e) A timeline for updates, as needed, based on conditions and projections and as determined by the local government in agreement with the Coastal Commission or BCDC for the aforementioned sea level rise planning and adaptation elements.

3) Requires the mandated timeline for sea level rise planning and adaptation updates include, to the maximum extent practicable, applicable implementation approaches that build upon both of the following: the sea level rise adaptation plan, and an economic analyses of critical public infrastructure.

4) Establishes the state's goal to implement these requirements by January 1, 2028.

5) Requires all local governments to comply with these requirements by January 1, 2033.

6) Authorizes, upon an appropriation by the Legislature, the Coastal Commission and BCDC to award funding to a local government that has received approval for sea level rise planning and adaptation to implement projects contained in that local government's sea level rise adaptation plan.

7) Requires the Coastal Commission and BCDC to prioritize funding projects of local governments that received approval on or before January 1, 2028.

Background

The state's Fourth Climate Change Assessment, published in 2018/2019, found that climate change impacts in the coastal zone already are "unprecedented," and will include the direct impacts of sea level rise, changes in ocean conditions, increased flooding amounts and frequency (including from rising groundwater tables, but also high "king" tides), wetland loss, and other hazards. More recent work has further honed the risks from impacts in different parts of the state, but not changed the overall assessment. Sea level rise poses an immediate and real threat to coastal ecosystems, livelihoods and economies, public access to the coast, recreation, private property, public infrastructure, water supplies, and the well-being and safety of coastal communities, including vulnerable populations.

The sea level along the state's coastline is currently predicted to most likely rise by about 8 inches by 2050, and over 6 feet by 2150 relative to levels in 2020. According to the National Oceanic and Atmospheric Administration, 12.3 million people were employed in coastal California in 2015, earning about $883.5 billion, which corresponds to over $2 trillion in annual gross domestic product. Just over two-thirds of the state's residents live in coastal counties. Sea level rise puts this at risk.

Recent projections of the impacts of sea level rise on the state include:

- In a February 2022 news story, a US Geological Survey scientist stated that daily overland flooding in California from 1 foot of sea level rise could put about $15 billion of properties at risk and impact 38,000 people. In addition, the daily emergence of groundwater pushed up by sea level rise could impact an additional 350,000 people and $100 billion of properties.

- An increase of four feet or more in Bay levels would cause daily flooding for nearly 28,000 socially vulnerable residents in the San Francisco Bay Area.

- Within the Delta region, 3.5 feet of sea level rise and changing storm patterns puts more than $10 billion of agricultural, residential and commercial property, and an additional $11.6 billion of infrastructure at risk of exposure or damage.

- Up to two-thirds of Southern California beaches may become completely eroded by 2100. Sea level rise puts safe and affordable public coastal access and recreation at risk.

- According to the US Geological Survey, the cost of building levees, sea walls and other measures to withstand 6.5 feet of sea level rise and a 100-year storm in San Francisco Bay by itself could cost as much as $450 billion.

- Sea level rise could result in the loss of most of the state's salt marshes with a corresponding decrease in the populations of species that depend upon those for habitat. Coastal bluffs will also continue to erode.

Comments

The importance of planning. As noted in the background, the potential impacts of sea level rise on the state's coastline are anticipated to be extensive with significant damage, loss, and expense anticipated to public safety, infrastructure, and the environment, among other things. Setting goals and deadlines for sea level rise planning to be completed will help to prioritize adaptation efforts and promote resiliency. Local governments are provided an incentive to meet the state's goal of January 1, 2028 as they will be prioritized for certain funding opportunities offered by the Coastal Commission and BCDC.

Materials are hosted at the Adaptation Clearinghouse that may be helpful to planning. The Adaptation Clearinghouse hosts Cal-Adapt which includes data related to climate adaptation and resilience generated by the research and scientific community that can be used to explore local level impacts. Cal-Adapt's visualization tools help to illustrate how climate impacts – such as rising sea levels, or increasing temperatures – will impact different communities in the state in the future. Links to the "Our Coast, Our Future" project are also hosted at the Adaptation Clearinghouse. This project uses the US Geological Survey's Coastal Storm Modeling System (CoSMoS) to provide detailed predictions of coastal flooding related to sea level rise and storms. Interactive maps showing local impacts are available.

The sea will continue to rise. According to the National Oceanic and Atmospheric Administration in their 2022 report titled *Global and Regional Sea Level Rise Scenarios for the United States*:

> Finally, regardless of future emissions pathways, [Global Mean Sea Level] rise will continue past 2150. […] Even for a relatively low warming level of 1.5°C, the committed sea level over the next 2000 years still ranges between about 2 m and 3 m. For 2°C, the upper range increases to 6 m.

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

According to the Assembly Appropriations Committee, enactment of this bill would result in ongoing, annual cost pressure between $4.5 million and $5.5 million (General Fund or special fund) for the Coastal Commission to hire between 20 and 25 new staff to implement the requirements of this bill; ongoing, annual cost pressure of approximately $3.5 million (General Fund or special fund) for BCDC to hire 18 new staff to implement the requirements of the bill; and, minor and absorbable costs to the Ocean Protection Council. By imposing additional requirements on local governments, this bill imposes a state-mandated local program, resulting in unknown but significant cost pressure for the state to reimburse local governments.

Implementation of this bill is contingent upon appropriation of funds by the Legislature.

SUPPORT: (Verified 8/22/22)

California Coastal Protection Network
Greenbelt Alliance
San Francisco Bay Conservation and Development Commission
Save the Bay
Solano County Board of Supervisors
Surfrider Foundation
Surfrider Foundation – San Mateo County Chapter

OPPOSITION: (Verified 8/22/22)

SF Bay Shoreline Contamination Cleanup Coalition

ARGUMENTS IN SUPPORT: According to the author, " SB 867 will equip local governments with the best available science to plan for and mitigate the effects of sea level rise within the coastal zone and ensure local coastal programs are updated to reflect these developments.

"Currently, local coastal programs are not required to address sea level rise, an often-overlooked aspect of climate change that has the potential to be one of the most damaging threats. A 2019 team of U.S. Geological Survey scientists found that even a small increase in sea level rise could be an overwhelming force when a storm hits.

"SB 867 will prepare communities for the future and strengthen existing coastal programs by providing local leaders with planning guidelines established by the

State Sea Level Rise Leadership team, consisting of 17 California state agencies who work collectively to achieve coastal resilience for the entire coast of California."

ARGUMENTS IN OPPOSITION: Writing in opposition, the SF Bay Shoreline Contamination Cleanup Coalition expresses concern that sea level rise due to climate change will contribute to the spread of toxic contamination around the San Francisco Bay shoreline. They ask for the author to "slow down this bill so environmental justice organizations and coalitions like ours, and the communities we represent, have sufficient time to respond with a full analysis of how this bill should be worded so it can properly protect our most vulnerable communities endangered by sea level rise […]" and ask for specific requirements in the bill for "scientific expert participation, stating which agencies will select these experts, what the selection criteria is, and that these agencies must include impacted frontline community residents and organizations on the selection committee." In addition they call for amendments to require BCDC to comply with its environmental justice policies..

ASSEMBLY FLOOR: 67-0, 8/22/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Choi, Cooley, Cooper, Cunningham, Daly, Flora, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Chen, Megan Dahle, Davies, Fong, Gallagher, Kiley, Lackey, Levine, Nguyen, Patterson, Seyarto, Smith

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

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UNFINISHED BUSINESS

Bill No: SB 887
Author: Becker (D) and Stern (D), et al.
Amended: 6/27/22
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 13-0, 3/28/22
AYES: Hueso, Dahle, Becker, Borgeas, Bradford, Dodd, Eggman, Gonzalez, Hertzberg, McGuire, Min, Rubio, Stern
NO VOTE RECORDED: Grove

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/19/22
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NOES: Bates, Jones

SENATE FLOOR: 29-6, 5/24/22
AYES: Allen, Atkins, Becker, Borgeas, Bradford, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NOES: Grove, Jones, Melendez, Nielsen, Ochoa Bogh, Wilk
NO VOTE RECORDED: Archuleta, Bates, Caballero, Hertzberg, Min

ASSEMBLY FLOOR: 75-0, 8/18/22 - See last page for vote

SUBJECT: Electricity: transmission facility planning

SOURCE: Author

DIGEST: This bill requires 15-year projections of energy resource portfolios and energy demand to inform transmission planning to achieve the state's clean energy goals, and requires the California Independent System Operator (CAISO) to consider approval for specified transmission projects as part of the 2022-23 transmission planning process.

Assembly Amendments make clarifying and technical changes, including replacing references to "gas-fired" resources with "nonpreferred resources", and replacing "locally constrained areas" with "local capacity areas."

ANALYSIS:

Existing law:

1) Establishes that U.S. Federal Energy Regulatory Commission (FERC) has exclusive jurisdiction over the transmission of electric energy in interstate commerce. Provides the process and procedures for establishing transmission of electricity in interstate commerce by public utilities (including the rates, terms & conditions of interstate electric transmission by public utilities). (Federal Power Act §§§201, 205, 206 (16 USC 824, 824d, 824e))

2) Establishes the CAISO as a nonprofit public benefit corporation, and requires the CAISO to ensure the efficient use and reliable operation of the electrical transmission grid consistent with the achievement of planning and operating reserve criteria. (Public Utilities Code §345.5)

3) Establishes the California Public Utilities Commission (CPUC) with jurisdiction over all public utilities, including electrical and gas corporations. Grants the CPUC certain general powers over all public utilities, subject to control by the Legislature. (Article XII of the California Constitution)

4) Requires the California Energy Commission (CEC) to conduct assessments and forecasts of all aspects of energy industry supply, production, transportation, delivery and distribution, demand, and prices and to use these assessments and forecasts to develop and evaluate energy policies and programs that conserve resources, protect the environment, ensure energy reliability, enhance the state's economy, and protect public health and safety. (Public Resources Code 25301(a))

5) Requires the CPUC, as part of the Public Utilities Act, to identify a diverse and balanced portfolio of resources needed to ensure a reliable electricity supply that provides optimal integration of renewable energy in a cost-effective manner. (Public Utilities Code §§454.51 and 454.55)

This bill:

1) Requires, by no later than March 31, 2024, the CPUC, in consultation with the CEC, to provide transmission-focused guidance to the CAISO about resource portfolios of expected future renewable energy resources and zero-carbon

resources, to allow the CAISO to identify and approve transmission facilities needed to interconnect resources and reliably serve the needs of load centers. Specifically, requires, among other requirements, resource portfolios and electricity demand by region for at least 15 years into the future.

2) Requires the CPUC, on or before January 15, 2023, to request the CAISO to:

   a) Identify the highest priority transmission facilities that are needed to allow for increased transmission capacity into local capacity areas to deliver renewable energy resources or zero-carbon resources that are expected to be developed by 2035 into those areas; and
   b) Consider whether to approve the identified transmission projects as part of the CAISO's 2022–23 transmission planning process.

3) Expresses the policy of the state that the planning for new transmission facilities consider the goals of minimizing the risk of wildfire and increasing system-wide reliability and cost efficiency, among other goals.

Background

Transmission planning process. Each year, the CAISO conducts its transmission planning process to identify potential system limitations as well as opportunities for system reinforcements that improve reliability and efficiency. The transmission plan fulfills the CAISO's core responsibility to identify and plan the development of solutions, transmission or otherwise, to meet the future needs of the electricity grid. The CAISO Transmission Plan provides a comprehensive evaluation of the CAISO transmission grid to address grid reliability requirements, identify upgrades needed to successfully meet California's policy goals, and explore projects that can bring economic benefits to consumers. The plan relies heavily on key inputs from state agencies in translating legislative policy into actionable policy driven inputs. Transmission owners recover the costs of CAISO-approved projects through the Transmission Access Charge (TAC). The transmission owner submits an application to FERC to recover project costs. FERC approves just and reasonable costs and rate of return. CAISO charges transmission customers based on FERC-approved costs. These costs are collected from electric utility customers as part of the transmission and distribution portion of the electric utility bill.

Forecasting by CEC and supply-side inputs by CPUC. The CEC conducts energy demand forecast used to inform several planning processes, including the CAISO's transmission planning process. The demand forecast is often a ten-year outlook for

electricity and natural gas sales, consumption, and peak and hourly electricity demand. The most recent demand forecast, published in January, is a 15-year forecast. Additionally, the CPUC provides energy resource supply-side inputs, including an annual resource portfolio, to inform the transmission planning by the CAISO.

SB 100 (De León, Chapter 312, Statutes of 2018). SB 100 established the 100 Percent Clean Energy Act of 2017 which increases the Renewables Portfolio Standard (RPS) requirement from 50 percent by 2030 to 60 percent, and created the policy of planning to meet all of the state's retail electricity supply with a mix of RPS-eligible and zero-carbon resources by December 31, 2045, for a total of 100 percent clean energy. SB 100 also required California Air Resources Board (CARB), CEC, and CPUC to issue a joint report by January 1, 2021, and at least every four years, that describes technologies, forecasts, affordability, and system and local reliability. The report is required to include an evaluation of costs and benefits to customer rate impacts, as well as, barriers to achieving the SB 100 policy. The first Joint Agency report was issued January 2021 and found that the state may need upwards of three times the energy resource capacity to meet the SB 100 goals.

CAISO 20-year Transmission Outlook. The CAISO created a 20-Year Transmission Outlook for the electric grid, in collaboration with the CPUC and the CEC, with the goal of exploring the longer-term grid requirements and options for meeting the State's SB 100 clean energy objectives reliably and cost-effectively. The 20-year Outlook was released in September 2021 and the CAISO intends for the expanded planning horizon to provide valuable input for resource planning processes conducted by the CPUC and CEC, and to provide a longer-term context and framing of pertinent issues in the CAISO's ongoing annual 10-Year Transmission Plan.

Replacing 10-year outlook with 15-year outlook. The author and supporters note the desire to better plan and prepare for the transmission needs to achieve the SB 100 goals, given the long lead times needed to build new transmission. As noted by the CAISO 20-year Transmission Outlook, the need for new transmission is likely to be great. A 15-year outlook may prove to be more certain than a 20-year outlook, though less certain than a 10-year horizon. Nonetheless, the author is correct to note the need to better plan for long lead-time new transmission. The CPUC has noted in recent FERC filings, it would support a longer planning horizon. However, such a change may not happen quickly and would entail transforming many, yet to be fully identified, data collection and inputs to

accommodate this transformation. This bill provided for the transformation to happen as soon as possible, but no later than March 31, 2024.

Too soon? This bill requires the CPUC, CEC, and CAISO to take actions by January 15, 2023, roughly two weeks from the date this bill would be enacted. The author notes this date may seem ambitious, but since bill adoption would happen in September, the author believes this may be sufficient time before the January 15 dates.

Related/Prior Legislation

SB 1174 (Hertzberg, 2022) requires specified reporting related to the timeliness of interconnection projects and approval of electric transmission projects. The bill is pending before the full Assembly.

SB 100 (De León, Chapter 312, Statutes of 2018) established the 100 Percent Clean Energy Act of 2017 which increases the RPS requirement from 50 percent by 2030 to 60 percent, and created the policy of planning to meet all of the state's retail electricity supply with a mix of RPS-eligible and zero-carbon resources by December 31, 2045, for a total of 100 percent clean energy.

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

According to the Assembly Appropriations Committee, the CPUC estimates it will need approximately $500,000 (special fund) annually ongoing for two regulatory analysts ($203,000 per year), one supervisory position ($260,000 per year) and various software licensing and related costs ($31,800). The CPUC also anticipates a cost, in the first four years following passage of this bill, of $400,000 per year in contracting costs to develop modeling enhancements to identify optimal energy resource portfolios and the amount and location of zero-carbon resources needed in specific areas with constrained transmission, and to develop reports, presentations and white papers.

Conversely, the CEC anticipates no new costs to implement this bill.

SUPPORT: (Verified 8/18/22)

350 Humboldt: Grass Roots Climate Action
350 Silicon Valley
American Clean Power – California
California Biomass Energy Alliance
California Energy Storage Alliance
California Environmental Voters

California State Association of Electrical Workers
California State Council of Laborers
California Wind Energy Association
Carbon Free Mountain View
Carbon Free Palo Alto
Carbon Free Silicon Valley
Clean Power Campaign
Climate Resolve
Coalition of California Utility Employees
EDP Renewables
Elders Climate Action – NorCal and SoCal Chapters
Engineering Contractors' Association
Environmental Defense Fund
Fernandeño Tataviam Band of Mission Indians
Foundation for Climate Restoration
International Union of Operating Engineers, Local Union No. 12
Laborers: Local 220 and Local 585
Laborers' International Union of North America – Pacific Southwest Region
Large-scale Solar Association
Menlo Spark
Natural Resources Defense Council
Pacoima Beautiful
Silicon Valley Youth Climate Action
Solar Energy Industry Association
Southern California Edison
The Climate Reality Project, Silicon Valley Chapter

OPPOSITION: (Verified 8/18/22)

None received

ARGUMENTS IN SUPPORT: According to the author,

> We cannot meet the goals of SB 100 -- reaching 100% renewable or zero carbon electricity by 2045 -- without building the transmission necessary to deliver that clean power to our cities. SB 887 will accelerate planning and approval of new transmission to help us get to 100% clean energy. The Joint Agencies SB 100 report estimated that we will need to triple the state's electric generation capacity by 2045. California's transmission grid is not prepared to deliver this vast increase in clean energy… And this problem is only going to get worse as the electrification of transportation and buildings increases demand

for electricity – unless we begin to build the transmission capacity that we will need to handle the clean energy grid of the future.

California is on a path to build tens of thousands of megawatts of new clean electricity generation, but without comparable efforts to expand our transmission capacity, this effort will fail to meet our climate goals. SB 887 will cause our state agencies to focus on the urgent need for transmission to ensure it is tackled in a timely and cost-effective manner and does not become a barrier to the state's clean energy transition."

ASSEMBLY FLOOR: 75-0, 8/18/22
AYES: Aguiar-Curry, Alvarez, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Chen, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Rendon
NO VOTE RECORDED: Arambula, Cervantes, Choi, Lackey, Wood

Prepared by: Nidia Bautista / E., U. & C. / (916) 651-4107
8/19/22 13:08:53

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

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UNFINISHED BUSINESS

Bill No: SB 892
Author: Hurtado (D), et al.
Amended: 8/15/22
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 9-0, 4/5/22
AYES: Dodd, Allen, Archuleta, Becker, Glazer, Hueso, Kamlager, Portantino, Rubio
NO VOTE RECORDED: Nielsen, Borgeas, Bradford, Jones, Melendez, Wilk

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/19/22
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NOES: Bates, Jones

SENATE FLOOR: 25-7, 5/24/22
AYES: Allen, Atkins, Becker, Bradford, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hueso, Hurtado, Laird, Leyva, Limón, McGuire, Min, Pan, Portantino, Roth, Rubio, Stern, Umberg, Wieckowski, Wiener
NOES: Bates, Dahle, Grove, Jones, Nielsen, Ochoa Bogh, Wilk
NO VOTE RECORDED: Archuleta, Borgeas, Caballero, Hertzberg, Kamlager, Melendez, Newman, Skinner

ASSEMBLY FLOOR: 75-0, 8/23/22 - See last page for vote

SUBJECT: Cybersecurity preparedness: food and agriculture sector and water and wastewater systems sector

SOURCE: Author

DIGEST: This bill requires the California Office of Emergency Services (OES) to direct the California Cybersecurity Integration Center (Cal-CSIC) to prepare and submit a strategic, multiyear outreach plan to assist the food and agriculture sector and the water and wastewater sector in their efforts to improve cybersecurity, as specified.

Assembly Amendments delete the requirement that OES develop and adopt optional reporting guidelines applicable to companies and cooperatives in the food and agriculture industry and entities in the water and wastewater systems industry, as specified, and delete the cyberattack or cyber threat reporting requirement, as specified.

ANALYSIS:

Existing law:

1) Establishes OES, pursuant to the California Emergency Services Act (ESA), which is responsible for the state's emergency and disaster response services, as specified.

2) Requires OES to establish Cal-CSIC with the primary mission of reducing the likelihood and severity of cyber incidents that could damage California's economy, its critical infrastructure, or public and private sector computer networks in the state.

3) Requires Cal-CSIC to provide warnings of cyberattacks to government agencies and nongovernmental partners, coordinate information sharing among these entities, assess risks to critical infrastructure information networks, enable cross-sector coordination and sharing of best practices and security measures, and support certain cybersecurity assessments, audits, and accountability programs.

4) Requires Cal-CSIC to develop a statewide cybersecurity strategy to improve how cyber threats are identified, understood, and shared in order to reduce threats to California's governments, businesses, and consumers, and to strengthen cyber emergency preparedness and response and expand cybersecurity awareness and public education.

5) Specifies that any report required or requested by law to be submitted by a state or local agency to the Members of either house of the Legislature be submitted as a printed copy to the Secretary of the Senate, as an electronic copy to the Chief Clerk of the Assembly, and as an electronic or printed copy to the Legislative Counsel.

This bill:

1) Requires OES to direct Cal-CSIC to prepare a strategic, multiyear outreach plan that focuses on ways to assist the food and agriculture sector and the water and wastewater sector in their efforts to improve cybersecurity and that includes, but is not limited to, all of the following:

    a) A description of the need for greater cybersecurity outreach and assistance to the food and agriculture sector and the water and wastewater sector.
    b) The goal of the outreach plan.
    c) Methods for coordinating with other state and federal agencies, nonprofit organizations, and associations that provide cybersecurity services or resources for the food and agricultural sector and the water and wastewater sector.
    d) An estimate of the funding needed to execute the outreach plan.
    e) Potential funding sources for the funding needed by Cal-CSIC for the plan.
    f) A plan to evaluate the success of the outreach plan that includes quantifiable measures of success.

2) Requires OES to submit the outreach plan to the Legislature no later than January 1, 2024, as specified.

3) Requires OES to direct Cal-CSIC to evaluate options for providing entities in the food and agriculture sector or the water and wastewater sector with grants or alternative forms of funding to improve cybersecurity preparedness, as specified. Upon completion of the evaluation, OES shall submit a report to the Legislature no later than January 1, 2024, that includes, but is not limited to, all of the following:

    a) A summary of the evaluation performed by Cal-CSIC.
    b) The specific grants and forms of funding for improved cybersecurity preparedness, including, but not limited to, current overall funding level and potential funding sources.
    c) Potential voluntary actions that do not require funding and assist the food and agriculture sector and the water and wastewater sector in their efforts to improve cybersecurity preparedness.

4) Makes related legislative findings and declarations.

Background

Purpose of the bill. According to the author's office, "cybersecurity is an issue that continues to rise in prevalence. Without making a conscious effort to strengthen cyber defenses, entities in critical sectors put themselves and those they serve at risk of a cyberattack. This threat becomes greater when looking at two of California's most crucial sectors – its food and agriculture sector, and its water and wastewater sector. A verified cyberattack in one of these sectors has potential to be devastating. In addition to putting personal information at risk, it risks the safety and integrity of food and water that goes to millions of Californians every day. Cyberattacks also delay production, increasing food prices and hurting the consumer's wallet, as well."

California Cybersecurity Integration Center. Initially established by Executive Order B-34-15 in 2015, Cal-CSIC was codified in statute by AB 2813 (Irwin, Chapter 557, Statutes of 2018). Cal-CSIC coordinates the state's cybersecurity activities and information sharing with federal and other state government entities. Four partners comprise the core of Cal-CSIC: OES, the California Department of Technology (CDT), the California Highway Patrol (CHP), and the California Military Department (CMD). OES serves as the administrative entity for Cal-CSIC, employing the Cal-CSIC Commander and Deputy Commander; CDT assesses cybersecurity policy and protocols in the event of a cyberattack; CHP looks into cybercrimes affecting the state's assets; and CMD assess potential cyber threats and vulnerabilities across state entities.

Critical Infrastructure Sectors. The Federal Cybersecurity and Infrastructure Agency (CISA) is one of the federal leads on national cybersecurity issues, and coordinates resilience and security efforts across critical infrastructure sectors. CISA identifies 16 critical infrastructure sectors with vial assets, networks, and systems that, if debilitated or destroyed, would have serious effects on national security, the economy, and/or public health and safety. Among the 16 identified critical infrastructure sectors are water and wastewater systems, and food and agriculture.

Recent federal data show that cyberattacks are increasing in California. In 2020, an estimated 47,000 cyberattacks with payouts totaling $1.2 billion were reported in the state across all entities and sectors. Specifically, the author's office points to a January 2021 cyberattack by an unknown hacker in the San Francisco Bay Area. The hacker used the username and password for a former employee's account, which allowed for remote access to the network. The hacker deleted programs that

the water plant used to treat drinking water. The hack wasn't discovered until the following day. Just a few weeks later, a cyberattack in Florida resulted in increasing the level of lye in public drinking water to unsafe levels for nearly 15,000 people.

This bill requires Cal-CSIC to prepare a strategic, multiyear outreach plan that focuses on ways to assist the food and agriculture sector and the water and wastewater sector in their efforts to improve cybersecurity. This bill requires OES to submit the outreach plan to the Legislature by January 1, 2024. Further, this bill requires Cal-CSIC to evaluate options for providing entities in the food and agriculture sector or the water and wastewater sector with grants or alternative forms of funding to improve cybersecurity preparedness.

Related/Prior Legislation

AB 2135 (Irwin, 2022) requires state agencies, as defined, to adopt and implement information security and privacy policies, standards, and procedures based upon specified standards. (Pending on the Senate Floor)

AB 2355 (Salas, 2022) requires local educational agencies to report any cyberattack to Cal-CSIC, as specified. (Pending on the Senate Floor)

AB 2813 (Irwin, Chapter 768, Statutes of 2018) established in statute Cal-CSIC within OES, the primary mission of which is the same as the Cal-CSIC as created by the previous executive order.

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

According to the Assembly Appropriations Committee, one-time costs of an unknown amount to OES to develop cybersecurity outreach plans for the specified industries. (General Fund)

SUPPORT: (Verified 8/22/22)

California Water Association
California Water Service

OPPOSITION: (Verified 8/22/22)

None received

ARGUMENTS IN SUPPORT: In support of this bill, the California Water Association writes that, "[p]ortions of California's water and wastewater sector suffer from a significant lack of cybersecurity preparedness. This lack of defense opens these life-sustaining systems to cyberattacks, including phishing attempts and ransomware. These threats ultimately threaten the health and safety of Californians who rely on these sectors. Just last year, a hacker deleted several of the programs needed to operate a wastewater treatment plant here in California. While the threat was addressed before damage was done, lack of preparedness could result in a much different outcome."

ASSEMBLY FLOOR: 75-0, 8/23/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Mike Fong, Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Davies, Flora, Gallagher, Gray

Prepared by: Brian Duke / G.O. / (916) 651-1530
8/23/22 15:12:09

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

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UNFINISHED BUSINESS

Bill No: SB 901
Author: Pan (D), et al.
Amended: 8/15/22
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 9-0, 3/8/22
AYES: Stern, Jones, Allen, Eggman, Grove, Hertzberg, Hueso, Laird, Limón

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 4/7/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/19/22
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SENATE FLOOR: 39-0, 5/25/22
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Hertzberg

ASSEMBLY FLOOR: 77-0, 8/23/22 - See last page for vote

SUBJECT: Flood protection: City of West Sacramento flood risk reduction project

SOURCE: West Sacramento Area Flood Control Agency

DIGEST: This bill authorizes state participation in the City of West Sacramento Flood Risk Reduction Project, sets boundaries for Reclamation District 900, and extend the deadline for the City of West Sacramento to achieve the urban level of flood protection from 2025 to 2030.

Assembly Amendments extend the deadline for the City of West Sacramento to achieve the urban level of flood protection from 2025 to 2030.

ANALYSIS:

Existing law:

1) Authorizes, under the State Water Resources Law of 1945 [Water Code (WC) §§12570 et seq], the state to participate in funding local flood control projects that are authorized by the Legislature and that meet all of the following criteria [WC §12582.7]:

    a) The project qualifies for federal financial assistance and is authorized by Congress. Projects may be authorized pursuant to an Army Corps of Engineers' Chief Engineer's report, but cannot receive state funding until authorized by Congress.
    b) The total annual benefit exceeds the annual cost of providing protection from flood damages.
    c) The project provides protection from flood damages in the most efficient manner practicable, and with due regard for environmental and recreational considerations, and local economic conditions.
    d) The project's nonfederal sponsor is in compliance with federal laws requiring the preparation, adoption, and implementation of a floodplain management plan.
    e) All local communities benefiting from the project have an ordinance consistent with the National Flood Insurance Program's model floodplain management ordinance.
    f) The project avoids, minimizes, or mitigates impacts to environmental and recreational values.
    g) Project planning documents include an evaluation of opportunities to include multipurpose objectives.
    h) The nonfederal sponsor accommodates other partners who wish to provide the costs of including multipurpose objectives that are compatible with the project's purpose and schedule.

2) Requires, before receiving payment or reimbursement from the state, the local agency to enter into an agreement with the Department Of Water Resources under which the local agency agrees to indemnify, hold, and save the state, and its officers, agents, and employees, harmless from any and all liabilities from damages associated with the maintenance and operation of the project. [WC §12643]

3) Provides, pursuant to the Water Infrastructure Improvements for the Nation (WIIN) Act as Public Law 114–322, a comprehensive appropriations and authorization bill, signed by President Obama on December 16, 2016. Section 1401(2) of the WIIN Act authorized:

A. **State**	**B.** **Name**	**C.** **Date of Report of Chief of Engi-neers**	**D.** **Estimated Costs**
8. CA	West Sacramento	Apr. 26, 2016	Federal: $788,861,000 Non-Federal: $424,772,000 Total: $1,213,633,000

4) Requires, with certain exceptions, urban and urbanizing areas protected by any levee that is part of the facilities of the State Plan of Flood Control to achieve the urban level of flood protection by 2025.

5) Creates, pursuant to Chapter 100 of the Statutes of 1911, Reclamation District 900 (RD 900) and establishes its boundaries. RD 900 is in Yolo County, largely within what is now the City of West Sacramento.

This bill:

1) Authorizes the state to participate in funding the West Sacramento Project for flood risk reduction along the Yolo Bypass, Sacramento Bypass, and Sacramento River adopted and authorized by the United States Congress in the Water Infrastructure Improvements for the Nation Act (Public Law 114-322).

2) Extends the deadline for the City of West Sacramento to achieve the urban level of flood protection from 2025 to 2030 and provides that the city may be liable for its fair and reasonable share of any property damage caused by a flood occurring between January 1, 2025, and December 31, 2030.

3) Adjusts the boundaries for RD 100 to include the territory of State Maintenance Area 4 (MA 4).

4) Makes a number of findings regarding the need for the bill the need for a special statute.

Comments

The West Sacramento Flood Project consists of improving approximately 41 miles of levees along the Sacramento River, Deep Water Ship Channel and Yolo Bypass. Completion of this project will result in 200 year level of flood protection for the 54,000 residents of West Sacramento.

This bill appears to meet all the requirements for authorizing state participation in funding the West Sacramento Project.

Why extend the deadline? According to the USACE District Project Manager, the estimated end date for the project is December 31, 2030. To ensure this extension of the deadline does not unreasonably expose the state to liability in the event of a flood between 2025 and 2030, this bill provides that the city may be liable for its fair and reasonable share of any property damage caused by a flood occurring between January 1, 2025, and December 31, 2030.

Necessary? Several decades ago, the Legislature delegated the ongoing responsibility to control the boundaries of most local agencies, including reclamation districts, to LAFCOs. In November 2019, Yolo LAFCO exercised this authority to expand RD 900's boundaries to include MA 4. Despite this action, SB 901 includes language that sets RD 900's boundaries. If LAFCO already expanded RD 900's boundaries, why is this language necessary? According to sponsors of this bill, this language provides legal certainty to ensure the project moves forward with state and federal funding. On the other hand, it could be read to imply that legislative action is necessary to set a local agency's boundaries despite previous LAFCO action. To help alleviate this concern, SB 901 states that the boundaries it sets for RD 900 conform to Yolo LAFCO's action on November 14, 2019.

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

According to the Assembly Appropriations Committee:

1) One-time cost pressure of at least $90 million (General Fund, special fund, or bond funds) for the remaining state cost-share obligation due to authorization of state participation in the West Sacramento flood project.

2) By increasing RD 900's boundaries and jurisdiction to include MA 4, this bill may impose a state-mandated local program. To the extent the Commission on State Mandates determines the provisions of this bill create a new program or impose a higher level of service, RD 900 could claim reimbursement for its costs. However, RD 900 will assume both assessment and maintenance responsibilities for the property included in MA 4; therefore, this analysis assumes the bill does not create a reimbursable state mandate.

SUPPORT: (Verified 8/23/22)

West Sacramento Area Flood Control Agency (source)
Association of California Water Agencies

California Central Valley Flood Control Association
County of Yolo
Reclamation District 900
Regional Water Authority

OPPOSITION: (Verified 8/23/22)

None received

ARGUMENTS IN SUPPORT: According to the author, "The Sacramento Region is rated as the second-highest region at risk of major flooding in the nation. This bill makes a number of necessary policy changes to improve the coordination and effectiveness of flood control in the City of West Sacramento. SB 901 revises the state authorization for the Project to make the Project eligible for state funding. It also improves coordination of flood protection efforts by permitting RD 900 to incorporate the parcels served by Maintenance Area 4 into its territory. SB 901 is critical in ensuring the safety of West Sacramento residents and the surrounding homes, businesses, and other critical infrastructure."

ASSEMBLY FLOOR: 77-0, 8/23/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Davies, Gray

Prepared by: Dennis O'Connor / N.R. & W. / (916) 651-4116
8/23/22 14:43:39

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

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UNFINISHED BUSINESS

Bill No: SB 931
Author: Leyva (D), et al.
Amended: 8/15/22
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 3/21/22
AYES: Cortese, Durazo, Laird, Newman
NOES: Ochoa Bogh

SENATE JUDICIARY COMMITTEE: 9-2, 4/19/22
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, Stern, Wieckowski, Wiener
NOES: Borgeas, Jones

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/19/22
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NOES: Bates, Jones

SENATE FLOOR: 25-9, 5/24/22
AYES: Atkins, Becker, Bradford, Cortese, Durazo, Eggman, Gonzalez, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NOES: Bates, Borgeas, Dahle, Grove, Jones, Melendez, Nielsen, Ochoa Bogh, Wilk
NO VOTE RECORDED: Allen, Archuleta, Caballero, Dodd, Glazer, Hertzberg

ASSEMBLY FLOOR: 59-14, 8/24/22 - See last page for vote

SUBJECT: Deterring union membership: violations

SOURCE: AFSCME – California
California Labor Federation
California Teamsters Public Affairs Council
SEIU - California State Council

DIGEST: This bill requires (1) the Public Employment Relations Board (PERB) to impose civil penalties on public sector employers if it finds they deterred or discouraged workers from exercising collective bargaining rights, as specified, and (2) public sector employers to pay the union attorney's fees and costs if the union prevails in a legal action to enforce those rights.

Assembly Amendments require PERB to apply the following criteria when assessing a civil penalty against an employer pursuant to the bill's provisions: (1) the public employer's annual budget; (2) the severity of the violation; and (3) any prior history of violations by the public employer.

ANALYSIS:

Existing law:

1) Prohibits a public employer from deterring or discouraging public employees, and applicants to be public employees, from becoming or remaining members of an employee organization, or from authorizing representation by an employee organization, or from authorizing dues or fee deductions to an employee organization. (Government Code (GC) § 3550)

2) Delegates to PERB, jurisdiction over violations by public employers regarding deterring or discouraging public employees from exercising their collective bargaining rights. (GC § 3551)

3) Defines "employee organization", "public employee", and "public employer" by reference to existing statutory frameworks governing public employer-employee labor relations. (GC § 3552)

4) Requires a public employer that wishes to send a mass communication to public employees to first meet and confer with the employees' union, and if, after meeting and conferring, the employer still wishes to send the communication, requires the employer to send also a communication from the union. (GC § 3553)

This bill:

1) Authorizes a public employee union to bring a claim against a public employer for violating the prohibition against deterring or discouraging public employees, and applicants to be public employees, from exercising their collective bargaining rights.

2) Subjects the public employer to a civil penalty of up to $1,000 per each affected employee, not to exceed $100,000 in total.

3) Requires that the PERB transfer the civil penalty to the General Fund.

4) Requires PERB to award the union its attorney's fees and costs, as specified, unless PERB finds the claim was frivolous, unreasonable, or groundless when brought, or the employee organization continued to litigate after it clearly became so.

5) Prohibits PERB, when a party challenges PERB's dismissal of an unfair practice charge, from awarding attorney's fees and costs related to the challenges, as specified.

6) Requires the superior court to award PERB its attorney's fees and costs if PERB initiates action in superior court to enforce its orders or defend its decision against a public employer that seeks judicial review and PERB is the prevailing party.

Comments

Need for this bill? According to the author, "When an employee organization succeeds in petitioning PERB to grant an unfair labor practice charge, PERB can only issue a cease-and-desist order requiring the employer to post notice of the violation. By the time of notice, the damage is done. It is obvious that some public employers are undeterred from breaking the law and will continue to violate their employees' rights to organize unless the Legislature acts to provide meaningful consequences."

Related/Prior Legislation

SB 27 (Durazo, Chapter 330, Statutes of 2021) authorized public employee unions to file a special unfair labor practices charge before PERB against public employers that fail to comply with existing law requiring disclosure of employee information to public employee unions; required PERB to levy a civil penalty not to exceed $10,000 if the employer is in violation of the disclosure requirements; required PERB to award the prevailing parties' attorney's fees and costs, as specified; and provided PERB authority to recover its own attorney's fees and costs, as specified, if required to seek enforcement of or defend its decisions in superior court.

AB 3096 (Chiu 2020) was similar to this bill but narrower in scope to only apply to the University of California. AB 3096 died in the Senate Labor, Public Employment and Retirement Committee.

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

According to the Assembly Appropriations Committee:

1) Ongoing General Fund costs to PERB of $129,000 to implement the provisions of the bill.

2) Penalty revenue of an unknown magnitude annually deposited into the General Fund.

3) Potential General Fund cost pressures of an unknown amount to public employers found to have violated existing law to pay civil penalties and attorney's fees and costs. Costs to public agencies would depend on the number of cases brought to the PERB and the number found to have violated existing law.

4) Potential General Fund cost pressures to the University of California (UC) and the California State University (CSU).

   According to UC and CSU, they would incur significant General Fund cost pressures to conduct ongoing staff trainings to ensure staff across various departments understand existing law related to deterring or discouraging union membership. In addition, the universities indicate they will incur significant costs to monitor department communications to ensure the communications do not violate existing law.

SUPPORT: (Verified 8/24/22)

AFSCME - California (co-source)
California Labor Federation (co-source)
California Teamsters Public Affairs Council (co-source)
SEIU - California State Council (co-source)
Arcadia Police Officers Association
Burbank Police Officers' Association
California Association of Professional Scientists
California Association of Psychiatric Technicians
California Coalition of School Safety Professionals

California Democratic Party
California Federation of Teachers, AFL-CIO
California Nurses Association
California Professional Firefighters
California State Association of Electrical Workers
California State Legislative Board, Smart - Transportation Division
California State Pipe Trades Council
California Teachers Association
Claremont Police Officers Association
Corona Police Officers Association
Culver City Police Officers' Association
Fullerton Police Officers' Association
Inglewood Police Officers Association
International Union of Elevator Constructors
Los Angeles School Police Officers Association
Newport Beach Police Association
Orange County Employees Association
Palos Verdes Police Officers Association
Peace Officers Research Association of California
Placer County Deputy Sheriffs' Association
Pomona Police Officer Association
Professional Engineers in California Government
Riverside Police Officers Association
Riverside Sheriffs' Association
Santa Ana Police Officers Political Action Committee
UAW Local 2865
UAW Local 4123
UAW Local 5810
UDW/AFSCME Local 3930
United Public Employees
Upland Police Officers Association
Western States Council Sheet Metal, Air, Rail and Transportation

OPPOSITION: (Verified 8/24/22)

Association of California Healthcare Districts
Association of California School Administrators
California Association of Joint Powers Authorities
California Association of School Business Officials
California Hospital Association
California School Boards Association

California Special Districts Association
California State Association of Counties
California State University, Office of the Chancellor
City of Garden Grove
League of California Cities
Office of The Riverside County Superintendent of Schools
Public Risk Innovation, Solutions, and Management
Riverside County Office of Education
Rural County Representatives of California
School Employers Association of California
Small School Districts' Association
University of California
Urban Counties of California

ARGUMENTS IN SUPPORT: According to the California Professional Firefighters, "Existing California law has clearly established that public employers are prohibited from taking actions that deter their employees from union membership, whether those employees are current or even prospective. However, despite the passage of this law clearly prohibiting these practices, various public employers have taken actions to deter their employees from seeking out union membership. These practices have included letters and other persuasive tactics from management to employees indicating that joining a union would reduce their ability to negotiate, or even issuing warnings about pay freezes based on the labor actions taken at other locations. These tactics are in clear violation of the law, and yet there are no enforcement mechanisms for organized labor or the state other than a cease-and-desist letter that comes long after the unlawful actions have already been taken."

ARGUMENTS IN OPPOSITION: According to the League of California Cities and a coalition of public employers:

"The monetary penalties under SB 931 could be as high as $100,000, in addition to attorney's fees. This is a substantial amount for any public entity and it is particularly egregious for small public employers. It is a stark departure from legislative action in the 2021-22 session. Recently established statute (Chapter 330, Statues of 2021), which has not taken effect, established for the first time PERB authority to level civil penalties. That penalty was capped at $10,000 and included considerations for the public agency's annual budget, the severity of the violation, and prior violations by the public agency in PERB's determination of the amount. We request the same maximum penalty and considerations for the circumstances be amended into SB 931."

Thus, the opposition requests amendments that would do the following:

- Authorize the equitable award of attorney fees for prevailing parties;
- Cap monetary penalties and adjust them for specified factors.
- Require the union to provide notice to the employer when filing the ULP claim with PERB so the employer has an opportunity to mitigate.

ASSEMBLY FLOOR: 59-14, 8/24/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Choi, Cunningham, Megan Dahle, Davies, Fong, Gallagher, Kiley, Mayes, Nguyen, Patterson, Seyarto, Smith, Voepel, Waldron
NO VOTE RECORDED: Bigelow, Flora, Gray, Irwin, Lackey, Mathis, Valladares

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
8/24/22 19:23:24

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

SENATE RULES COMMITTEE
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UNFINISHED BUSINESS

Bill No: SB 941
Author: Portantino (D), et al.
Amended: 8/18/22
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 3/23/22
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, McGuire, Pan

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 39-0, 4/21/22
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NO VOTE RECORDED: Wilk

ASSEMBLY FLOOR: 77-0, 8/22/22 - See last page for vote

SUBJECT: Local educational agency instruction collaboration agreements: science, technology, engineering, and mathematics: dual language immersion programs

SOURCE: Author

DIGEST: This bill authorizes local educational agencies (LEAs) to enter into an agreement with one or more LEAs to offer the same or similar corresponding individual courses or coursework to a student from another LEA who has been impacted disruptions or cancellations in classes in science, technology, engineering, and mathematics (STEM) or dual language immersion programs, or teacher shortages in those classes or programs.

Assembly Amendments (1) specify the courses or coursework must be the same or similar corresponding coursework; and (2) make technical changes to reflect that

participating students remain enrolled in their school or origin while taking coursework from another LEA.

ANALYSIS:

Existing law:

1) Requires each person between the ages of 6 and 18 years to be subject to compulsory full-time education, and requires attendance at the public full-time day school and for the full length of the schoolday by the governing board of the school district in which the residency of either the parent or legal guardian is located. (Education Code (EC) § 48200)

2) Provides that a student complies with the residency requirements for school attendance in a school district if he or she is any of the following:

   a) A student placed within the boundaries of that school district in a regularly established licensed children's institution or a licensed foster home, or a family home.

   b) A student who is a foster child who remains in his or her school of origin.

   c) A student for whom inter-district attendance has been approved.

   d) A student whose residence is located within the boundaries of that school district and whose parent or legal guardian is relieved of responsibility, control, and authority through emancipation.

   e) A student who lives in the home of a caregiving adult that is located within the boundaries of that school district.

   f) A student residing in a state hospital located within the boundaries of that school district.

   g) A student whose parent or legal guardian resides outside of the boundaries of that school district but is employed and lives with the student at the place of his or her employment within the boundaries of the school district for a minimum of three days during the school week. (EC § 48204)

3) Authorizes the governing boards of two or more school districts to enter into an agreement, for a term not to exceed five school years, for the inter-district attendance of student who are residents of the school districts. (EC § 46600)

4) Authorizes the governing board of a school district to elect to operate the school district as a school district of choice and may accept transfers from school districts of residence, as specified. Existing law requires, if a school district elects to accept transfers pursuant to District of Choice provisions, this school district to determine and adopt, by resolution, the number of transfers it is willing to accept and must accept all students who apply to transfer until the school district is at maximum capacity. Existing law requires the school district of choice to ensure that students are selected through an unbiased process that prohibits an inquiry into or evaluation or consideration of whether or not a student should be enrolled based upon his or her academic or athletic performance, physical condition, proficiency in English, any of individual characteristics, and, except for purposes of determining priority for students eligible for free or reduced-price meals, family income. (EC § 48300)

This bill:

1) Authorizes the governing board or body of an LEA to enter into an agreement with one or more LEAs to offer the same or similar corresponding individual courses or coursework to a student from another LEA, subject to an agreement between the LEAs, who has been impacted by any of the following:

   a) Disruptions or cancellations in STEM classes.

   b) Disruptions or cancellations in dual language immersion programs.

   c) Teacher shortages in STEM classes or dual language immersion programs.

2) Requires LEAs, if they elect to accept students pursuant to this bill, to determine the number of students it is willing to offer the same or similar corresponding individual courses or coursework to under and must accept students who apply for the same or similar corresponding individual courses or coursework until the LEA is at maximum capacity.

3) Requires an LEA that accepts students to ensure that the students admitted are selected through an unbiased process that prohibits an inquiry into, or evaluation or consideration of, whether or not a student should be authorized to participate in the course or coursework based upon the student's academic or athletic performance, physical condition, proficiency in English, any individual characteristics, or family income.

4) Requires LEAs to conduct a public random drawing if the number of students seeking a classroom opportunity exceeds the number of seats available in a classroom of the receiving LEA.

5) Requires LEAs that enter into a collaborative agreement to publicly post information, as specified, to ensure that students and their families are aware of the opportunities to participate under the agreement.

6) Requires the average daily attendance attributable to a student to remain with the LEA that the student originated from for purposes of state apportionment. This bill requires the agreement between the LEAs to include an appropriate shared cost structure negotiated by the collaborating LEAs.

7) Requires the California Department of Education to evaluate the programs implemented pursuant to this bill, including an analysis of whether students benefited from the programs and any obstacles to creating the programs.

8) Sunsets the provisions of this bill on July 1, 2029.

9) Defines "local educational agency" as a school district, county office of education, or charter school.

10) States legislative findings and declarations relative to:

    a) The consideration of inter-district collaborations as an alternative to canceling classes or seeking emergency credentials for teachers who have not benefited from a complete academic education background or student teaching experiences.

    b) One viable alternative is collaborative agreements whereby a LEA with classroom space or excess capacity may offer to share facilities and opportunities with students from neighboring LEAs, whether in person or online.

Comments

Need for the bill. According to the author, "California has the most public school students in the nation and faced a critical shortage of teachers even before disruptions from the COVID-19 pandemic. In the 2017-18 school year, 80% of California school districts faced a shortage of teachers. Nine out of 10 school districts stated that the shortage was getting worse. A recent report on school districts around the state by the Learning Policy Institute found that the most pronounced shortages include math, science, and bilingual education. The deficit of certified teachers is more pronounced in rural regions and communities of color and has only been exacerbated by the current pandemic.

"School districts are being forced to cancel classes or seek emergency credentials for teachers who have not benefited from a complete academic education background or student teaching experiences. An alternative to class cancellations or emergency credentials is to allow inter-district collaborations."

Existing examples of students attending multiple schools. Students may be enrolled in only one school at a time. It is likely that some LEAs currently have agreements with neighboring LEAs to allow students to take some courses at a school in which they are not enrolled; however, there are no known statewide programs/initiatives that specifically authorize or prescribe criteria for such agreements between LEAs. While there may be examples of such local agreements, the most well-known situations involve high school students who also take community college courses (such as dual enrollment and Middle College High School). This bill authorizes LEAs to enter into specific agreements, but does not require local agreements to be limited to STEM or dual immersion courses or to follow the process prescribed by this bill.

Why just STEM and dual immersion? As noted by the author, a recent report by the Learning Policy Institute noted that teacher shortages are particularly acute in math, science, special education, and bilingual education. Teacher shortages persist in many subject areas, but have historically been more pronounced in the above-mentioned subject areas. (https://learningpolicyinstitute.org/sites/default/files/product-files/California_ COVID_Teacher_Workforce_REPORT.pdf)

Admission criteria. This bill requires LEAs, if they elect to accept students pursuant to this bill, to take certain steps in determining how many students to accept, selecting students through an unbiased process, and conduct a public random drawing if the number of students seeking an opportunity exceeds the number of seats available in a classroom. These provisions are consistent with existing law related to inter-district transfer and Districts of Choice.

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

According to the Assembly Appropriations Committee:

1) One-time General Fund costs of about $185,000 for the California Department of Education to develop a reporting system for participating LEAs and to evaluate the program.

2) Cost neutral as funding will be negotiated at the local level.

SUPPORT: (Verified 8/22/22)

Association of California School Administrators

OPPOSITION: (Verified 8/22/22)

None received

ASSEMBLY FLOOR: 77-0, 8/22/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Davies, Levine

Prepared by: Lynn Lorber / ED. / (916) 651-4105
8/22/22 19:59:13

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

SENATE RULES COMMITTEE SB 950
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UNFINISHED BUSINESS

Bill No: SB 950
Author: Archuleta (D), et al.
Amended: 8/15/22
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 4-0, 4/19/22
AYES: Hurtado, Jones, Cortese, Pan
NO VOTE RECORDED: Kamlager

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/19/22
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SENATE FLOOR: 39-0, 5/25/22
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Hertzberg

ASSEMBLY FLOOR: 76-0, 8/24/22 - See last page for vote

SUBJECT: CalFresh: income eligibility: basic allowance for housing

SOURCE: Author

DIGEST: This bill requires the California Department of Social Services (CDSS) to submit a waiver request to the United States Department of Agriculture (USDA) to exclude the Basic Allowance for Housing (BAH) for uniformed service members from countable income for purposes of CalFresh eligibility, as provided.

Assembly Amendments (1) remove the December 31, 2023 date for CDSS to submit a waiver request to USDA and instead require the CDSS to submit waiver requests on or before July 1, 2023, and annually thereafter, (2) change the code section of the bill, (3) remove the requirement that the waiver be implemented

within 12 months of being approved, (4) require CDSS to issue an all-county letter instructing counties on updated eligibility requirements and benefit calculations, as provided, and (5) add coauthors.

ANALYSIS:

Existing law:

1) Provides, pursuant to federal law, a BAH to which a uniformed service member, including a member with dependents, as specified, is entitled if they are also entitled to basic pay. (37 *United States Code (USC) 403)*

2) 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 2011 et seq.)*

3) Provides, under federal law, the income and eligibility standards for SNAP. *(Title 7 Code of Federal Regulations 273.9 et seq.)*

4) 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.)*

5) Allows the California Department of Social Services (CDSS) to implement all waivers approved by the U.S. Secretary of Agriculture through all-county letters or similar instructions meeting specified criteria. *(WIC 18900.9)*

This bill:

1) Requires CDSS, on or before July 1, 2023, and annually after that, to submit a request for a federal waiver to exclude BAH provided to uniformed service members from countable income in the determination of eligibility and benefit level of CalFresh.

2) Requires CDSS, upon federal approval of the waiver, to consult with the County Welfare Directors Association of California, advocates for CalFresh recipients, and the Military Department, to issue an all-county letter instructing counties on updated eligibility requirements and benefit calculations.

3) Provides, if the Commission on State Mandates determines that the act contains costs mandated by the state that reimbursement to local agencies and school districts for those costs be made pursuant to the statutory provisions.

Background

CalFresh. CalFresh, California's version of federal SNAP benefits, 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. CalFresh is the largest nutrition assistance program in California, with 2.6 million households and over 4.6 million people receiving benefits in December of 2021. The program is administered by CDSS at the state level and California's 58 counties are responsible for administering CalFresh at the local level. CalFresh benefits are federally funded and national income eligibility standards and benefit levels are established by the federal government.

California determines CalFresh eligibility by seeing if the applicant's gross monthly income is 200% of the federal poverty level (FPL) or less for their household size. That means for a household of three in California the maximum gross monthly income for CalFresh eligibility is $3,464. For a household of one in California the maximum gross monthly income for CalFresh eligibility is $2,024. Households with seniors or disabled members aren't subject to the gross income criteria, however, their net monthly income must be 100 percent of FPL or below.

The benefit amount a household may receive is dependent upon circumstances such as household size, countable income, and monthly household expenses. Benefits are made available to recipients on an electronic benefits transfer (EBT) card, which is an automated teller machine-like card that allows an individual to purchase food at point-of-sale devices in stores and farmers markets. As of October 1, 2021 the maximum monthly benefit amount for a one-person household in California is $250, while a family of three may receive up to $658. As a result of the Families First Coronavirus Response Act, all CalFresh recipients are currently receiving the maximum allowable benefit amount based on household size. This funding is tied to the federal public health emergency declaration. Prior to this pandemic related change, the average monthly benefit for a household of one was $134.

The SNAP maximum monthly benefit amounts are updated each June based on the cost of the Thrifty Food Plan and those updates go into effect on October 1. The Thrifty Food Plan is the cost of groceries needed to provide a healthy, budget-conscious diet for a family of four. In 2021, Congress directed the USDA to study the costs required to purchase a healthy diet. As a result, SNAP/CalFresh benefit amounts were permanently adjusted as of October 1, 2021, to provide 40 cents more per person, per meal to the maximum monthly benefit amounts, or a 22.7 percent average monthly increase to pre-pandemic benefits levels.

Basic Allowance for Housing. The basic pay of uniformed service members is determined by their grade (or rank), years of service, and number of dependents, and is adjusted for the local median rental rates across different geographic locations. Uniformed service members are also provided a number of allowances, including BAH, which is provided to service members with housing costs who are living in or permanently stationed in the United States. BAH was previously only provided to service members living off base, in non-government provided housing; however, it was extended to cover some situations of on-base housing. Under the 2022 National Defense Authorization Act (NDAA) effective January 1, military service members' BAH rates increased 5.1 percent. The 2022 BAH for service members with dependents ranges from $1317 per month in Twentynine Palms to over $6800 in San Francisco.

While the BAH is nontaxable, it is considered income for purposes of determining eligibility for certain assistance programs, including CalFresh under the 2008 Food and Nutrition Act. This disqualifies them from accessing the CalFresh program; however, families may qualify for the Special Supplemental Nutrition Program for Women, Infants and Children (WIC). WIC provides federal grants to states for supplemental food, health care referrals, and nutrition education for low-income pregnant, breastfeeding, and non-breastfeeding postpartum women, and to infants and children up to age five who are found to be at nutritional risk.

Hidden Food Insecurity in the Military. According to the USDA, nationally 22,000 SNAP households included active service members in 2019. Prior to the Covid-19 pandemic hunger among military members, veterans, and their families was an "unspoken issue", one that appears to especially affect junior enlisted members with children (Level E1-E4) and enlisted members of color. A 2020 Blue Star Families survey found that, "14% of enlisted, active-duty household respondents reported facing difficulties with putting food on their tables". Additionally, a 2019 survey by the Military Family Advisory Network found that "1 in 8 members of the military and veterans communities had recently experienced food insecurity".

Hunger among enlisted military and their families has been a topic of debate recently because no formal study on the scope of the problem has been completed. Representative Jim McGovern (D–MA) has appealed for a Pentagon study of the problem and a repeal of the USDA's BAH regulation, and Senator Tammy Duckworth (D–IL) has sponsored a bill that would establish a Basic Needs Allowance payment for military families in need.

Comments

According to the author, "the men and woman who are serving and defending our nation should never be a position where they are struggling to provide food for themselves and their families. It is unacceptable that thousands of military families are experiencing food insecurity. SB 950 will exclude a military family's basic housing allowance from consideration when calculating CalFresh income eligibility. By modifying income calculations, this measure will help our brave service members put food on the table."

Related/Prior Legislation

AB 1828 (Chen, 2022) was similar to this bill and would have excluded the BAH from being counted as income for determining CalFresh eligibility. AB 1828 was held in the Senate Assembly Appropriations Committee, however the bill's language was incorporated into SB 950.

AB 1883 (Weber, 2017) would have excluded the BAH for certain military households from being counted as income for determining eligibility for subsidized child care and change certain requirements related to the administration of alternative payment programs. AB 1883 was held in the Senate Appropriations Committee.

AB 276 (Hueso, 2013) would have excluded the BAH received by active military or honorably discharged veterans from being counted as income for the purpose of determining CalFresh and would have required CDSS request a waiver of the USDA to exclude BAH as income in determining CalFresh eligibility and benefit levels. AB 276 was held in the Assembly Human Services Committee at the request of the author.

AB 170 (Saldana, 2007) would have excluded the BAH received by active military personnel from being counted as income for determining eligibility for state preschool. AB 170 was held in the Assembly Appropriations Committee.

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

According to the Assembly Appropriations Committee, if the federal waiver is granted, CDSS anticipates the following costs:

1) Ongoing administrative costs of approximately $5 million ($2.1 million General Fund (GF)) in the first year and $4.1 million ($1.8 million GF) annually ongoing, for counties to manage increased workload. CDSS anticipates a

caseload increase of 12,880 due to the exclusion of the BAH in the eligibility calculations for CalFresh.

2) One-time automation costs of approximately $500,000 ($250,000 GF) for programming changes to enable counties to exclude the BAH from the CalFresh eligibility calculations. Given the current migration to the single California Statewide Automated Welfare System (CalSAWS) automation system, implementation is unlikely until late 2024.

3) Minor and absorbable costs to update the CalFresh application to include a question about the BAH for active service members. CDSS indicates it would perform this update as part of its regular update process.

SUPPORT: (Verified 8/24/22)

American Legion-Department of California
County of San Diego
County Welfare Directors Association of California

OPPOSITION: (Verified 8/24/22)

None received

ASSEMBLY FLOOR: 76-0, 8/24/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Gray, Irwin, Quirk-Silva

Prepared by: Bridgett Hankerson / HUMAN S. / (916) 651-1524
8/24/22 19:23:27

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

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UNFINISHED BUSINESS

Bill No: SB 972
Author: Gonzalez (D), et al.
Amended: 8/18/22
Vote: 21

SENATE HEALTH COMMITTEE: 9-1, 4/20/22
AYES: Pan, Eggman, Gonzalez, Grove, Leyva, Limón, Roth, Rubio, Wiener
NOES: Melendez
NO VOTE RECORDED: Hurtado

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 29-5, 5/26/22
AYES: Allen, Archuleta, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Gonzalez, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NOES: Dahle, Glazer, Grove, Melendez, Nielsen
NO VOTE RECORDED: Atkins, Hertzberg, Hueso, Jones, Min, Ochoa Bogh

ASSEMBLY FLOOR: 63-0, 8/24/22 - See last page for vote

SUBJECT: California Retail Food Code

SOURCE: California Insurance Commissioner Ricardo Lara
Coalition for Humane Immigrant Rights
Community Power Collective
Inclusive Action for the City
Public Counsel
Western Center on Law and Poverty

DIGEST: This bill establishes a new type of retail food facility called a "compact mobile food operation" (CMFO) as a subcategory of mobile food facility that is nonmotorized and operates from a pushcart or stand; exempts CMFOs from

various provisions of the retail food code law, including certain sink requirements; prohibits criminal penalties from applying to CMFOs and instead limits enforcement to administrative penalties; and exempts sales from CMFOs from counting toward the limits for cottage food operators or microenterprise home kitchens.

Assembly Amendments delete and recast many of the provisions of this bill into a new chapter in the California Retail Food Code, limited the ability to use microenterprise home kitchens as commissaries to only two CMFOs, and only if approved by the local jurisdiction, increased the fine authority to up to three times the cost of a permit, and made other narrowing and clarifying changes.

ANALYSIS:

1) Establishes the California Retail Food Code (CalCode) to regulate retail food facilities. Health and sanitation standards are established at the state level through the CalCode, while enforcement is charged to local agencies, carried out by the 58 county environmental health departments, and four city environmental health departments (Berkeley, Long Beach, Pasadena, and Vernon). [HSC §113700, et seq.]

2) Defines a "potentially hazardous food," in part, as a food that requires time or temperature control to limit pathogenic micro-organism growth or toxin formation. Requires potentially hazardous food to be maintained at or above 135 degrees Fahrenheit, or at or below 41 degrees Fahrenheit. [HSC §113781]

3) Defines a "mobile food facility" as any vehicle used in conjunction with a commissary or other permanent food facility upon which food is sold or distributed at retail. Defines "commissary" as a food facility that services mobile food facilities, mobile support units, or vending machines where any of the following occur: food containers, or supplies are stored; food is prepared or prepackaged for sale or service at other locations; utensils are cleaned; or, liquid and solid wastes are disposed, or potable water is obtained. [HSC §113831, §113751]

4) Defines a "cottage food operation" (CFO), for purposes of the CalCode, as an enterprise that prepares or packages nonpotentially hazardous foods, and includes both "Class A" CFOs, which is restricted to direct sales of food products with up to $75,000 in gross annual sales, and "Class B" CFOs which may engage in both direct sales and indirect sales through third-party retail food facilities with up to $150,000 in sales. Requires the gross annual sales limits to be annually adjusted for inflation. [HSC §113758]

5) Defines a microenterprise home kitchen operation (MEHKO) as a food facility that is operated by a resident in a private home where food is stored, handled, and prepared for, and may be served to, consumers, and that meets certain requirements, including limiting food preparation to 30 meals per day, and 60 meals per week, and up to $50,000 in annual gross sales. [HSC §113825]

6) Provides the governing body of a city or county with full discretion to authorize, by ordinance or resolution, the permitting of MEHKOs, and requires a permit issued by a county that has authorized the permitting of MEHKOs to be valid in any city within the county regardless of whether the city has separately enacted an ordinance or resolution to authorize or prohibit the permitting of MEHKOs within that city. [HSC §114367]

7) Establishes a misdemeanor penalty for a violation of any provision of the CalCode, punishable by a fine of not less than $25 or more than $1,000, or by imprisonment in the county jail for up to six months, or by both fine and imprisonment. [HSC §114395]

This bill:

1) Creates a new type of retail food facility, for purposes of regulation by the Cal Code, called the "compact mobile food operation" as a subcategory of a mobile food facility, and defines a CMFO as a mobile food facility that operates from an individual or from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance.

2) Limits enforcement of violations of the CalCode for CMFOs, notwithstanding the existing misdemeanor penalties for all food facilities, to be punishable only by an administrative fine, consistent with provisions of law establishing an administrative fine structure for sidewalk vendors in the Government Code, which is subject to mandatory reductions based on an individual's ability to pay. Specifies that operating a CMFO without a permit is punishable by a fine up to three times the cost of the permit. Prohibits CMFOs from being punishable as an infraction or misdemeanor, and prohibits CMFO operators from being subject to arrest except when independent grounds for that arrest exist under law.

3) Revises the definition of "limited food preparation" by doing the following:

    a) Including the dispensing and portioning for immediate service to a customer of food that has been temperature controlled until immediately prior to portioning or dispensing;

b) Including the slicing and chopping of nonpotentially hazardous food or produce that has been washed at an approved facility; and,
c) Permitting, by repealing prohibitions on these activities from being considered part of "limited food preparation," the reheating of potentially hazardous foods for hot holding.

4) Limits CMFOs to only conducting limited food preparation, as defined, and permits them to display or sell food outdoors, under specified conditions including overhead protection for all food display areas.

5) Permits a CFO or MEHKO to serve as a commissary or mobile support unit for up to two CMFOs if the CFO or MEHKO permit includes an endorsement from the local enforcement agency that the CFO or MEHKO is capable of supporting the preparation and storage of the food being sold from the CMFO and the storage and cleaning of the CMFO.

6) Permits transaction at a CMFO to constitute "direct sales" for purposes law governing CFOs, and exempts transactions at CMFOs operated by a CFO from counting toward the annual gross sales restrictions that apply to CFOs under existing law, if the governing body of the jurisdiction where the CMFO is permitted has authorized this action.

7) Permits food prepared in a MEHKO to be served from a CMFO operated by the MEHKO permitholder, and specifies the meal and gross annual sales limitations do not apply to sales of nonpotentially hazardous food or produce for up to two CMFOs operated by the MEHKO if the governing body of the jurisdiction where the MEHKO is permitted has authorized this action.

8) Permits the governing body of a local jurisdiction that permits MEHKOs to set meal and income limitations at a higher level than existing law for MEHKOs that operate in conjunction with CMFOs.

9) Permits permanent food facilities to be permitted to support the operations and storage of CMFOs.

10) Permits an enforcement agency to allow the use of a private home for the storage of up to two CMFOs if it determines that it would not pose a public health hazard.

11) Requires a CMFO that prepares raw meat, raw poultry, or raw fish to comply with warewashing and handwashing facility requirements outlined in existing law, but can satisfy the requirements by demonstrating access to a permitted

auxiliary conveyance containing the necessary handwashing and warewashing sinks.

12) Permits a CMFO that does not prepare raw meat, raw poultry, or raw fish to avoid having to provide a warewashing sink by maintaining an adequate supply of spare preparing and serving utensils to ensure that utensils are replaced every four hours or as needed, but is still required to provide an integral handwashing sink, as specified.

13) Permits an enforcement agency to waive the requirement that a mobile food facility be operated within 200 feet travel distance of an approved and readily available toilet and handwashing facility if the mobile food facility operates with multiple employees or operators and the facility may remain operable by a single employee so that employees or operators may alternate use of a restroom.

14) Permits an enforcement agency to preapprove a standard plan for a standardized or mass-produced facility intended to serve as a mobile food facility. Specifies that a person proposing to operate a mobile food facility for which plans have been preapproved is not required to submit plans for the individual unit, but is subject to a final inspection, at which time the enforcement agency can collect a fee. Specifies that the repair of this equipment or the replacement of equipment and fixtures with substantially similar equipment is not a remodel, and does not require the submission of plans to an enforcement agency.

15) Exempts CMFOs from a requirement that an owner or employee pass an approved food safety certification examination if they prepare, handle, or serve nonprepackaged potentially hazardous food, and specifies that CMFOs are deemed to comply with a requirement that the owner or person in charge demonstrate that they have an adequate knowledge of food safety principles as they relate to the specific food facility operation if the CMFO permitholder obtains a food handler card, as specified.

Comments

1) *Author's statement.* According to the author, sidewalk food vending is essential to California's economy, culture, and health. Sidewalk food vending allows low-income and immigrant workers, often excluded from other opportunities, to make a living and provide for their families, while building a successful business. Sidewalk food vendors provide healthy food in neighborhoods that lack access to healthy food retail, and they contribute

mightily to our local economies. In 2018, the Legislature enacted SB 946 (Lara, Chapter 459, Statutes of 2018), which established parameters for local regulations concerning vending location and manner of operations. After several years of local implementation of SB 946, it is apparent that outdated requirements found in the CalCode —including incompatible equipment and design standards, exorbitant costs, and punitive enforcement measures—are preventing the vast majority of all sidewalk food vendors from obtaining a local health permit to vend food. By reducing permit barriers, public health agencies will have a significantly greater ability to educate vendors and offer corrective measures to cart designs and operating procedures that will increase overall community health and safety. This bill promotes economic inclusion while improving public health by modernizing CalCode so that sidewalk food vendors can actually obtain a permit and join the regulated vending economy.

2) *Sidewalk vending decriminalization bill.* As noted in the author's statement, SB 946 was intended by the author and proponents to help sidewalk vendors support themselves and their families by prohibiting overly restrictive local ordinances that were making it difficult if not impossible to operate. Among other provisions, SB 946 prohibited a city or county from requiring sidewalk vendors to operate within specific parts of public right-of-way except where that restriction is directly related to objective health, safety, or welfare concerns. Local authorities cannot restrict the overall number of sidewalk vendors, nor restrict sidewalk vendors to operate only in a designated area, unless these restrictions are directly related to health, safety or welfare concerns. Significantly, SB 946 removed criminal penalties in place of administrative penalties, in part to prevent the federal government from using a criminal history in deportation proceedings. Specifically, it restricted penalties for violating the requirements of a local authority's compliant sidewalk vending program to an administrative penalty of $100 for a first violation, $200 for a second violation within one year of the first violation, and $300 for each additional violation within one year of the first violation. Administrative penalties for vending without a permit are $250, $500, and $1,000, respectively. A local authority is required to accept 20% of the fine in full satisfaction if the violator earns less than 125% of the federal poverty line. However, SB 946 did permit cities and counties to require compliance with any other licensing and permitting required by law, and specifically stated that nothing affects the applicability of the CalCode to a vendor who sells food. Therefore, a sidewalk vendor is still out of compliance, and subject to enforcement, if they are selling food without a permit as a food facility under the requirements of the CalCode.

3) *CFO law.* AB 1616 (Gatto, Chapter 415, Statutes of 2012) enacted the regulatory structure for CFOs. This law, for the first time, permitted the preparation of food in home kitchens for sale at the retail level, and initially set the cap at $50,000 in gross annual sales. However, cottage food is limited to non-potentially hazardous foods: foods that by definition do not require refrigeration or to be kept hot in order to prevent the growth of micro-organisms or toxins. These foods include items such as baked goods (without custard or meat fillings), candy, dried fruit, dried pasta, dried baking mixes, fruit pies, granola, herb blends, and jams or jellies, among others. The law set up two categories of CFOs: Class A operations, which are limited to direct sales to consumers, and Class B operations, which are also permitted to sell through third-party retailers such as restaurants or coffee shops. AB 1144 (Rivas, Chapter 178, Statutes of 2021) increased the sales cap from $50,000 for both license types to $75,000 for Class A and $150,000 for Class B, and required that these caps be adjusted annually for inflation.

4) *MEHKOs.* AB 626 (Garcia, Chapter 470, Statutes of 2018) established a regulatory structure for MEHKOs. The intent of the author was to establish a legal way for home cooks to benefit from their labor and skills and promote economic development in vulnerable communities where the sale of homemade food is popular. The general structure of AB 626 was to enact a permitting process that would be overseen by the same local health agencies that oversee fully-permitted restaurants, but to exempt these MEHKOs from requirements that would be difficult to meet in a home kitchen, such as sinks with multiple compartments and multiple drainboards, requirements related to the floor, wall and counter material, special plumbing requirements, limitations on who could be in the food preparation area, etc. AB 626 required jurisdictions to opt-in in order to authorize MEHKOs in any given area. There are 62 local environmental health agencies that enforce the CalCode in their respective jurisdictions (the 58 counties, plus the cities of Berkeley, Long Beach, Pasadena, and Vernon). According to the Cook Alliance, which was one of the sponsors of AB 626 and has been tracking its implementation, the following nine counties have authorized the permitting of MEHKOs: Riverside, Alameda, San Mateo, Santa Barbara, San Diego, Solano, Imperial, Lake, and Sierra.

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

According to the Assembly Appropriations Committee, minor and absorbable costs to the Department of Public Health.

SUPPORT: (Verified 8/24/22)

California Insurance Commissioner Ricardo Lara (co-source)
Coalition for Humane Immigrant Rights (co-source)
Community Power Collective (co-source)
Inclusive Action for the City (co-source)
Public Counsel (co-source)
Western Center on Law and Poverty (co-source)
Active San Gabriel Valley
African American Chamber of Commerce of San Joaquin County
Alliance San Diego
Beverly-Vermont Community Land Trust
Brown Issues
California Asian Pacific Chamber of Commerce
California Association for Micro Enterprise Opportunity
California Calls
California Coalition for Community Investment
California Community Economic Development Association
California Community Foundation
California Environmental Voters
California Immigrant Policy Center
California League of United Latin American Citizens
California Reinvestment Coalition
Californians for Economic Justice
Central American Resource Center
Central Coast Alliance United for a Sustainable Economy
City of Cudahy
cityLAB UCLA
Climate Resolve
Community Action Board of Santa Cruz County, Inc.
Community Health Councils
Comunidades Indígenas en liderazgo
Council of Mexican Federations in North America
County of Los Angeles
Courage California
Cultiva La Salud
Drug Policy Alliance
East LA Community Corporation
Eastmont Community Center
Eastside Leadership for Equitable and Accountable Development Strategies
El Concilio California

End Poverty in California
Esperanza Community Housing Corporation
Having Our Say Coalition
Hispanic Chambers of Commerce of San Francisco
Housing Now!
Inland Coalition for Immigrant Justice
Inland Empire Immigrant Youth Collective
LA Más
LAC+USC Medical Center Foundation
Latino Coalition for a Healthy California
Latino Coalition of Los Angeles
Latino Community Foundation
Local Initiatives Support Corporation
Los Angeles Area Chamber of Commerce
Los Angeles Food Policy Council
Los Angeles Walks
Loyola Immigrant Justice Clinic
Mayor of Los Angeles, Eric Garcetti
National Lawyers Guild, Los Angeles Chapter
PICO California
Pilipino Workers Center
Pomona Economic Opportunity Center
Safe Place for Youth
SALVA
San Diego Immigrant Rights Consortium
Small Business Majority
South Asian Network
Strategic Actions for a Just Economy
Thai Community Development Center
TransLatin@ Coalition
UCLA Center for Labor Research and Education
United Way of Greater Los Angeles
Urban Movement Labs
10 individuals

OPPOSITION: (Verified 8/24/22)

Blue Gold Fleet
California Attractions and Parks Association
California Contract Cities Association
California Travel Association

City of Downey
City of Paramount
City of Whittier
Civic Center Community Benefit District
Fisherman's Wharf
Golden Gate Restaurant Association
Hotel Council of San Francisco
Pacific Park Santa Monica
Pier 39
San Diego Tourism Authority
San Francisco Chamber of Commerce
San Francisco Travel Association
Santa Cruz Beach Boardwalk
Santa Monica Chamber of Commerce
Santa Monica Pier
Santa Monica Travel and Tourism
Tandem
Union Square Alliance
Visit Sacramento

ASSEMBLY FLOOR: 63-0, 8/24/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cunningham, Daly, Flora, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Waldron, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Chen, Choi, Cooper, Megan Dahle, Davies, Fong, Gallagher, Gray, Irwin, Kiley, Nguyen, O'Donnell, Seyarto, Smith, Voepel, Ward

Prepared by: Vincent D. Marchand / HEALTH / (916) 651-4111
8/24/22 19:23:13

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

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UNFINISHED BUSINESS

Bill No: SB 1016
Author: Portantino (D), et al.
Amended: 8/18/22
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 3/23/22
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, McGuire, Pan

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/19/22
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SENATE FLOOR: 39-0, 5/25/22
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Hertzberg

ASSEMBLY FLOOR: 77-0, 8/22/22 - See last page for vote

SUBJECT: Special education: eligibility: fetal alcohol spectrum disorder

SOURCE: Author

DIGEST: This bill requires the State Board of Education (SBE) to include "fetal alcohol spectrum disorder" in the regulatory definition of "other health impairment" for the purpose of special education eligibility.

Assembly Amendments add coauthors and clarify the name of the SBE in statute.

ANALYSIS:

Existing law:

1) Defines “individuals with exceptional needs” as persons who satisfy all the following:

    a) Identified by an individualized education program (IEP) team as a child with a disability, as that phrase is defined in federal law.

    b) Their impairment requires instruction and services which cannot be provided with modification of the regular school program in order to ensure that the individual is provided a free appropriate public education.

    c) Meet eligibility criteria set forth in regulations adopted by the State Board of Education.

State Regulations

2) Specifies that a child shall qualify as an individual with exceptional needs, pursuant to state law, if the results of the required assessment demonstrate that the degree of the child's impairment requires special education in one or more program options.

3) Specifies that the decision as to whether or not the assessment results demonstrate that the degree of the child's impairment requires special education shall be made by the IEP team, taking into account all the relevant material which is available on the child.

4) Defines “other health impairment” as having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment that:

    a) Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and

    b) Adversely affects a child's educational performance.

This bill requires the SBE to include “fetal alcohol spectrum disorder” in the regulatory definition of “other health impairment” for the purpose of special education eligibility.

Comments

1) *Need for the bill.* According to the author, "In California, most professionals are not trained in Fetal Alcohol Spectrum Disorder (FASD) or even aware of the disorder. As a result, the overwhelming number of affected children and adults in the state do not receive a diagnosis and, therefore, do not receive appropriate care. Without proper diagnosis and interventions, individuals with FASD face a life of challenges, including behavioral, cognitive, mental health, substance use, homelessness, and involvement with the criminal justice system, as youth and adults. Even having a typical IQ is not protective. Without early diagnosis and intervention, 80% of adults with FASD and typical range IQ will never live independently as adults.

   "Currently, FASD is not a recognized category for special education under the Individuals with Disabilities Education Act (IDEA). It is also not named as a disorder under the Other Health Impaired category by the California Department of Education. Hence, students with the most prevalent developmental disability in the US are being underserved in school districts across the state, with detrimental lifelong consequences."

2) *The basics about FASD.* FASD is a group of conditions that can occur in a person who was exposed to alcohol before birth. These effects can include physical problems and problems with behavior and learning. Often, a person with FASD has a mix of these problems.

   Different FASD diagnoses are based on particular symptoms and include:

   a) *Fetal Alcohol Syndrome (FAS):* FAS represents the most involved end of the FASD spectrum. People with FAS have central nervous system problems, minor facial features, and growth problems. People with FAS can have problems with learning, memory, attention span, communication, vision, or hearing. They might have a mix of these problems. People with FAS often have a hard time in school and trouble getting along with others.

   b) *Alcohol-Related Neurodevelopmental Disorder (ARND):* People with ARND might have intellectual disabilities and problems with behavior and learning. They might do poorly in school and have difficulties with math, memory, attention, judgment, and poor impulse control.

c) *Alcohol-Related Birth Defects (ARBD):* People with ARBD might have problems with the heart, kidneys, or bones or with hearing. They might have a mix of these.

d) *Neurobehavioral Disorder Associated with Prenatal Alcohol Exposure (ND-PAE):* A child or youth with ND-PAE will have problems in three areas: (1) thinking and memory, where the child may have trouble planning or may forget material he or she has already learned, (2) behavior problems, such as severe tantrums, mood issues, and difficulty shifting attention from one task to another, and (3) trouble with day-to-day living, which can include problems with bathing, dressing for the weather, and playing with other children. In addition, to be diagnosed with ND-PAE, the mother of the child must have consumed more than minimal levels of alcohol before the child's birth.

Diagnosing FASD can be difficult because there is no medical test, like a blood test, for these conditions. And other disorders, such as ADHD (attention-deficit/hyperactivity disorder) and Williams syndrome, have some symptoms like FAS. To diagnose FASD, doctors typically look for prenatal alcohol exposure, central nervous system problems, lower-than-average height and/or weight, and abnormal facial features. While there is no cure for FASD, research shows that early interventions—diagnosis before age 6, stable home environment, medications, and special education and other social services—can improve a child's development.

3) *The US Department of Education declined to add FASD to the Individuals with Disabilities Education Act.* In the most recent reauthorization of the federal IDEA, a public comment noted that many children with FAS do not receive special education and related services and recommended adding a disability category for children with FAS to solve this problem. In response, the department asserted that existing federal law and regulations are sufficient to include children with FAS because special education and related services are based on the identified needs of the child and not on the disability category in which the child is classified.

Another public comment requested that FAS be added to the list of acute or chronic health conditions in the definition of other health impairment. The department's response was that the list of acute or chronic health conditions in the definition of other health impairment is not exhaustive, but rather provides examples of problems that children have that could make them eligible for

special education and related services under the category of other health impairment. The department declined to include FAS (along with bipolar disorders, dysphagia, and other organic neurological disorders) in the definition of other health impairment because these conditions are commonly understood to be health impairments.

4) *Issue brief from the Center for FASD Justice and Equity.* As part of the FASD Educational Equity Project, the Center for FASD Justice and Equity released an issue brief titled "Fetal Alcohol Spectrum Disorders: The Impact on Public Education A Complicated And Pressing Public Health Issue With Major Implications For Schools". The summary of the brief states the following in support of the overall goal of this bill:

   "The failure to identify FASD as an eligibility category creates an environment of inconsistency. While the commentary from the previous IDEA reauthorization stressed that FAS was commonly known and understood to be a health impairment the reality is that schools are not grasping this disorder as a health impairment consistently. As a result, many families are frustrated and concerned about their child's ability to receive an appropriate education. They are also concerned that schools do not have an understanding of FASD and are over reliant on school discipline as a result. The fact is that regardless of any form of discipline applied to a child on the spectrum that punishment is not going to reverse the brain damage associated with FASD. Furthermore, as the respondents across our survey for families, professionals, and individuals on the spectrum indicated that school experience plays a role in the development of secondary disabilities. The national committee strongly believes by recognizing and appropriately addressing FASD in education we can disrupt the trend towards secondary disabilities and disrupt the school-to-prison pipeline for students on the FASD spectrum. FASD needs to be addressed in education. It is a matter of justice."

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

According to the Assembly Appropriations Committee:

1) No costs to the SBE to add "fetal alcohol spectrum disorder" in the regulatory definition of "other health impairment."

2) Potential Proposition 98 General Fund cost pressures to local educational agencies to the extent more students are identified for special education services

as a result of this bill. This bill would not affect the amount of state funding provided for special education because the current funding for special education is based on total student attendance, not the number of students receiving special education services.

If the Commission on State Mandates determines the bill's requirements to be a reimbursable state mandate, the state would need to reimburse these costs to local educational agencies or provide funding through the K-12 Mandate Block Grant.

SUPPORT: (Verified 8/22/22)

Alcohol Justice
Alliance for Children's Rights
American Academy of Pediatrics
Best Start Region
California Alcohol Policy Alliance
California Council on Alcohol Problems
Center for Public Interest Law
FASD Now!
First 5 Santa Clara County
Fresno Council on Child Abuse Prevention
Innovate Public Schools
John Burton Advocates for Youth
Kids in Common
Mcgowan Advocacy Group
Patricia Kasper, Ma Mth, Training Services, LLC
Santa Clara County Office of Education
Sonoma Valley Democratic Club
The Arc and United Cerebral Palsy California Collaboration
The Arc of Riverside County
The Children's Initiative
The Institute for Fetal Alcohol Spectrum Disorder Discovery
The West Contra Costa Alcohol Policy Coalition
United Parents
Violence Intervention Program Community Mental Health Center
Western Center on Law & Poverty

OPPOSITION: (Verified 8/22/22)

California Teachers Association

ASSEMBLY FLOOR: 77-0, 8/22/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Davies, Levine

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8/22/22 19:59:21

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

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UNFINISHED BUSINESS

Bill No: SB 1029
Author: Hurtado (D)
Amended: 8/15/22
Vote: 21

SENATE HEALTH COMMITTEE: 11-0, 3/23/22
AYES: Pan, Melendez, Eggman, Gonzalez, Grove, Hurtado, Leyva, Limón, Roth, Rubio, Wiener

SENATE AGRICULTURE COMMITTEE: 4-0, 4/27/22
AYES: Borgeas, Hurtado, Caballero, Glazer
NO VOTE RECORDED: Eggman

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/19/22
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SENATE FLOOR: 39-0, 5/25/22
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Hertzberg

ASSEMBLY FLOOR: 77-0, 8/23/22 - See last page for vote

SUBJECT: One Health Program: zoonotic diseases

SOURCE: Author

DIGEST: This bill requires the California Departments of Public Health, Food and Agriculture, and Fish and Wildlife to establish and administer a program related to reducing the spread of disease from animals to humans.

Assembly Amendments add the California Department of Fish and Wildlife to the program; require the three departments to periodically post joint reports on their respective internet websites and to submit the joint reports to the Legislative Analyst's Office (LAO); require, upon the three departments' initial development of the required framework, the LAO submit to the relevant policy and fiscal committees of the Legislature a single report containing an assessment of whether the framework is a reasonable approach to meeting the purpose of the One Health Program as described; and, recommend ways in which the Legislature could conduct regular oversight of the framework's implementation.

ANALYSIS:

Existing law:

1) Establishes the California Department of Public Health (CDPH), which has responsibilities related to infectious disease control and prevention, food safety, environmental health, laboratory services, patient safety, emergency preparedness, chronic disease prevention and health promotion, family health, health equity and vital records and statistics. [HSC §100100, et seq.]

2) Establishes the California Department of Food and Agriculture (CDFA) to promote and protect the agriculture industry in California, to seek to enhance, protect, and perpetuate the ability of the private sector to produce food and fiber in a way that benefits the general welfare and economy, and maintain the economic well-being of agriculturally dependent rural communities. [FAC 101, et seq.]

This bill:

1) Requires CDPH, CDFA, and the Department of Fish and Wildlife (CDFW) (collectively, the departments) to establish and administer the One Health Program for the purpose of developing a framework for interagency coordination in responding to zoonotic diseases and reducing hazards to human and nonhuman animal health, in accordance with the One Health principles set forth by the federal Centers for Disease Control and Prevention (CDC).

2) Requires the departments to develop the framework for the One Health Program in consultation with stakeholders, that may include, but are not limited to, the One Health Office of the CDC, the Medical Board of California, the Veterinary Medical Board, agricultural programs, institutes, or schools within the

University of California system or California State University system, and community-based organizations.

3) Requires the departments, in developing the framework, to establish goals, identify activities necessary to achieve those goals, and recommend legislation or other actions to advance One Health efforts.

4) Requires, upon the departments' initial development of the required framework, the LAO submit to the relevant policy and fiscal committees of the Legislature a single report containing both of the following:

   a) An assessment of whether the framework is a reasonable approach to meeting the purpose of the One Health Program as described; and,
   b) Recommendations for ways in which the Legislature could conduct regular oversight of the framework's implementation.

5) Requires this bill to be implemented subject to an appropriation by the Legislature.

Comments

According to the author, the CDC estimates that three out of four emerging infectious diseases in people come from animals. Currently, there are 1.6 million undiscovered viruses circulating in the animal population, at least half of which have the potential to spread to humans. Many scientists have warned there are still more deadly and virulent diseases that have the potential to be transmitted from animal to humans in the future. However, neither California, nor the United States, has invested enough in to the research of zoonosis and emerging infectious diseases. This bill addresses and furthers California's commitment to the One Health approach by requiring CDPH and CDFA to develop and administer a framework to carry out One Health program goals and principles. The One Health approach is a collaborative effort of multiple health science professions coming together to achieve optimal health for people, domestic animals, wildlife, plants and our environment.

One Health Office. CDC's One Health Office is the agency's lead for One Health activities domestically and globally. Established in 2009, it is the first formal office dedicated to One Health established in a US federal agency. The office is located within the National Center for Emerging and Zoonotic Infectious Diseases at CDC. The One Health Office works to promote the concept of One Health and increase awareness of CDC's role in One Health in the United States and around the

world. The office works closely with human, animal, and environmental health partners in the United States, in other countries, and with international organizations to build strong partnerships; develops tools and trainings to advance One Health; and leverages CDC's expertise to assist partners in strengthening One Health efforts.

Zoonotic diseases. According to the CDC, zoonotic diseases are caused by harmful germs like viruses, bacterial parasites, and fungi and can be spread to humans. Animals can sometimes appear healthy even when they are carrying germs that can make people sick, depending on the zoonotic disease. Zoonotic diseases are very common, both in the United States and around the world. Scientist's estimate that more than six out of every 10 known infectious diseases in people can be spread from animals, and three out of every four new or emerging infectious diseases in people come from animals. Because of this, CDC works to protect people from zoonotic diseases in the United States and around the world. People can get infected with germs that cause zoonotic disease through direct and indirect contact with infected animals or through mosquito, flea, and tick bites, or drinking or coming into contact with contaminated water.

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

According to the Assembly Appropriations Committee:

1) Costs to CDPH of approximately $1.3 million (General Fund (GF)) annually.

2) CDFA estimates costs of $603,000 for fiscal year (FY) 2022-23, $449,000 for FY 2023-24, and $449,000 for FY 2024-25 and ongoing, for two scientific staff to implement the program, facilitate data sharing, and provide communication and coordination with partner agencies (GF).

3) CDFW would need $760,000 in fiscal year 2023-24 and $694,000 in FY 2024-25 and ongoing, for three scientific staff to implement coordinated disease surveillance and response, and take a leadership role in the One Health framework development and implementation, and for disease surveillance and testing to collect, necropsy, examine, and test samples on zoonotic diseases.

SUPPORT: (Verified 8/18/22)

American Society for the Prevention of Cruelty to Animals
Boehringer Ingelheim Pharmaceuticals
California Animal Welfare Association
California Veterinary Medical Association

Mosquito and Vector Control Association of California
San Diego Humane Society

OPPOSITION: (Verified 8/17/22)

Department of Finance

ARGUMENTS IN SUPPORT: The American Society for the Prevention of Cruelty to Animals (ASPCA) writes that currently the State of California lacks a clear framework to carry out the One Health principles and goals, which aim to prevent further outbreaks of zoonotic diseases in animals and people, improve food safety and security, and protect global health security overall. Further action is needed to ensure that California continues to raise awareness and advance the goals of One Health. This bill requires the framework development be completed in consultation with stakeholders. The ASPCA requests an amendment that the unique perspective and expertise in the nexus between animal welfare and public health, be included in that stakeholder group.

ARGUMENTS IN OPPOSITION: The Department of Finance is opposed to this bill because it results in ongoing General Fund costs not included in the Administration's spending plan.

ASSEMBLY FLOOR: 77-0, 8/23/22

AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Bigelow, Davies, Gray

Prepared by: Teri Boughton / HEALTH / (916) 651-4111
8/23/22 15:17:26

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

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UNFINISHED BUSINESS

Bill No: SB 1055
Author: Kamlager (D), et al.
Amended: 8/15/22
Vote: 21

SENATE JUDICIARY COMMITTEE: 8-2, 4/5/22
AYES: Umberg, Caballero, Durazo, Hertzberg, Laird, Stern, Wieckowski, Wiener
NOES: Borgeas, Jones
NO VOTE RECORDED: Gonzalez

SENATE APPROPRIATIONS COMMITTEE: 5-0, 5/19/22
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NO VOTE RECORDED: Bates, Jones

SENATE FLOOR: 34-0, 5/24/22
AYES: Allen, Atkins, Bates, Becker, Bradford, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Archuleta, Borgeas, Caballero, Hertzberg, Jones, Melendez

ASSEMBLY FLOOR: 55-4, 8/24/22 - See last page for vote

SUBJECT: Child support enforcement: license suspensions

SOURCE: California Families Rise
Reentry Advocates
Root and Rebound
Western Center on Law and Poverty

DIGEST: This bill prohibits, effective January 1, 2025, the Department of Child Support Services (DCSS) from seeking the denial, withholding, or suspension of a

driver's license from low-income child support obligors; beginning January 1, 2027, the restriction will apply only to noncommercial driver's licenses.

Assembly Amendments eliminate the bill's extension of the deadline for when a support obligor would be considered "out of compliance" for purposes of determining when a driver's license should be suspended; increase the income ceiling on when a support obligor is not eligible for an action on their license, from 60 percent to 70 percent of the relevant county median income; add the January 1, 2025, effective date; and add a requirement that, commencing January 1, 2027, DCSS's provision on seeking the denial, withholding, or suspension of a license will apply only to noncommercial licenses.

ANALYSIS:

Existing federal law:

1) Provides block grants to states to fund state programs for low-income families with children. (42 U.S.C., ch. 7, subch. IV, §§ 601 et seq.)

2) Imposes on the states receiving grants certain requirements relating to the state's collection of child and family support, including the requirement that states have and utilize a procedure for withholding, suspending, or restricting the license(s), including the driver's license, of a person with overdue child or family support obligations. (42 U.S.C. §§ 654(20)(A), 666(16).)

    a) Federal law does not specify how long a parent's support obligation must be in arrears before the state must take action against the parent's license. (42 U.S.C. § 666(e).)

Existing state law:

1) Adopts the following relevant definitions for the suspension of a license of a person with an overdue child or family support obligation:

    a) "Compliance with a judgment or order for support" is defined as being no more than 30 days in arrears in making payments in full on a court-ordered child or family support obligation. (Fam. Code, § 17520(a)(4).)

    b) "License" includes membership in the State Bar of California; a certificate, credential, permit, registration, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession;

appointment and commission by the Secretary of State as a notary public; any driver's license issued by the DMV; any commercial fishing license issued by the Department of Fish and Wildlife and, to the extent required by federal law or regulations, any license used for recreational purposes; and all licenses, certificates, credentials, permits, registrations, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession. (Fam. Code, § 17520(a)(5).)

2) Establishes the following procedures for implementing the license suspension program:

   a) A local child support agency must maintain a list of the persons who are not in compliance with court-ordered child or family support payments (i.e., more than 30 days in arrears) and submit an updated version of the list to the Department of Child Support Services (DCSS) on a monthly basis. (Fam. Code, § 17520(b).)
   b) DCSS must consolidate the lists it receives from local child support agencies and, within 30 days of receipt, provide a copy of the consolidated list to each board responsible for issuing licenses subject to suspension. (Fam. Code, § 17520(c).)

   c) In cases involving licenses other than a non-commercial driver's license, if a licensing board determines that an applicant for licensure or renewal is on the most recent list but is otherwise eligible for licensure, the board may withhold issuance or renewal of the license. (Fam. Code, § 1750(e)(1).)

   d) For driver's licenses, other than a commercial license, the DMV shall notify the obligor of the overdue payments and issue a 150-day temporary license to give the obligor time to pay the overdue child or family support. The 150-day temporary license may be renewed for one additional 150-day period upon a showing of good cause. The DMV may issue a non-temporary license to the applicant only if the applicant pays the overdue child or family support. (Fam. Code, § 17520(e)(2).)

   e) DCSS may, when economically feasible, provide a list of the support obligors who are more than four months in arrears on child or family support payments to the covered licensing boards and request that these obligors have their licenses suspended. The board must provide a notice of the intent to suspend the license in 150 days if the obligor does not pay the overdue child or family support; this temporary license may not be renewed. (Fam. Code, § 17520(e)(3).)

f) When the obligor becomes in compliance with a support order, the local child support agency must issue a notice to the obligor and the relevant board(s) stating that the obligor is in compliance. Upon receipt, the board shall process the release and issue the requested license for the remainder of the licensing term. (Fam. Code, § 17520(l).)

3) Requires DHCD to set income thresholds for persons or families of low income, moderate income, and median income, based on the median income in the geographic area, for purpose of determining eligibility for certain public benefits, and to set forth the income levels in regulations. (Health & Saf. Code, § 50093.)

This bill:

1) Provides, beginning January 1, 2025, that DCSS shall not transmit to the DMV, for purposes of denying, withholding, or suspending a driver's license for failure to pay child support, the information of a support obligor found to be out of compliance with a judgment or order for support in a case being enforced under Title IV-D of the federal Social Security Act, if the annual household income of the support obligor is at or below 70 percent of the median income for the county in which the department or the local child support agency believes the support obligor resides, based on the most recent available data published by the Department of Housing and Community Development pursuant to Section 6932 of Title 25 of the California Code of Regulations or successor regulation thereto.

2) Provides, beginning January 1, 2027, the prohibition on transmitting information to the DMV will apply only to noncommercial driver's licenses.

3) Provides that 1) and 2) shall be implemented only to the extent permitted allowed under federal law.

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

According to the Assembly Appropriations Committee:

1) Cost (General Fund (GF)) of an unknown, but potentially significant amount in excess of $150,000 to the DCSS in additional staff and resources to establish new statewide policies and procedures and make modifications within the Child Support Enforcement (CSE) system to implement the change proposed by this

bill. As this bill would take effect on January 1, 2023, DCSS estimates it is unlikely that the necessary updates to policies, training, and CSE-functionality could be completed in time and absorbed within existing resources.

Additional possible loss of child support revenue to the extent the threat of license suspension increases the likelihood of payment. However, DCSS estimates approximately 84% of people ordered to pay child support have either income below $40,000 per year, or no income reported at all. As a result, this bill will make the majority of people ordered to pay support ineligible for driver's license suspension. Therefore, loss of revenue may be minor given that most people ordered to pay support are unable to pay support currently under existing law.

Finally, this bill may result in some cost savings since fewer driver's license suspension for low-income people ordered to pay support may allow local child support agency (LCSA) staff to redirect resources towards addressing other delinquent payers who have a greater ability to pay their arrears balance.

2) Costs (Motor Vehicle Account) to the Department of Motor Vehicles (DMV) in the millions to tens of millions of dollars to modify its legacy systems to ensure only commercial driver's licenses are suspended for owing child support. DMV is currently implementing an enterprise modernization project and DMV has implemented a containment strategy that limits changes to the core legacy systems to avoid the risk of catastrophic failure and detrimental impacts to the continuity of operations. If this bill is enacted, DMV anticipates it will have to build a temporary solution outside the core legacy system resulting in significant costs.

SUPPORT: (Verified 8/24/22)

California Families Rise (co-source)
Reentry Advocates (co-source)
Root and Rebound (co-source)
Western Center on Law and Poverty (co-source)
California Association of Family Law Specialists
Starting Over, Inc.
Tipping Point Community

OPPOSITION: (Verified 8/24/22)

None received

ARGUMENTS IN SUPPORT: According to Western Center on Law and Poverty, one of the co-sponsors of the bill:

> California has a strong interest in making sure that non-custodial parents share in the cost of raising children. It is in the state's interest to promote policies that encourage employment of these parents and to refrain from enacting policies that act as a barrier to employment. The state's current policy of suspending the driver's licenses of all parents in arrears on child support is a significant barrier to parents meeting their child support obligations. Without a license, many people cannot keep their current job and find it difficult to pay their child support. In fact, suspending the driver's license may have the opposite effect by making it harder for non-custodial parents to help with their children's expenses.
>
> There are approximately 140,000 persons currently with a license suspension in California due to not being current with their child support payments. But suspension of the license is only the beginning of the outcomes caused by the policy. A New Jersey Study found that 42 percent of persons with a suspended license lost their job, that only 45 percent of those found another job and that 88 percent of all persons with a suspended license lost income. License suspensions lead to a spiral of poverty that can be extremely hard to escape… SB 1055 will significantly reduce the use of harsh driver's licenses suspensions on persons who do not have the ability to pay child support. The use of license suspension as an enforcement tool is an outdated approach that national motor vehicle departments are asking state legislatures to cease imposing.

ASSEMBLY FLOOR: 72-0, 9/10/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Cooley, Cooper, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Wicks, Wood, Rendon

NO VOTE RECORDED: Mia Bonta, Choi, Cunningham, Lorena Gonzalez, Gray, Levine, Ward, Akilah Weber

Prepared by: Allison Meredith / JUD. / (916) 651-4113
8/24/22 19:40:33

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

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UNFINISHED BUSINESS

Bill No: SB 1056
Author: Umberg (D), et al.
Amended: 8/15/22
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-0, 4/19/22
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas, Jones

SENATE APPROPRIATIONS COMMITTEE: 5-1, 5/19/22
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NOES: Jones
NO VOTE RECORDED: Bates

SENATE FLOOR: 34-0, 5/25/22
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Dahle, Hertzberg, Jones, Melendez, Nielsen, Ochoa Bogh

ASSEMBLY FLOOR: 70-0, 8/23/22 - See last page for vote

SUBJECT: Violent posts

SOURCE: Author

DIGEST: This bill requires a social media platform, as defined, with 1,000,000 or more monthly users to clearly and conspicuously state whether it has a mechanism for reporting violent posts, as defined; and allows a person who is the target, or who believes they are the target, of a violent post to seek an injunction to have the violent post removed.

Assembly Amendments modify the definition of "social media platform" and related definitions to make the definitions consistent with other pending social media-related bills; remove incitements to imminent lawless action from the definition of "violent post,"; and provide that a person may not bring an action under this bill's provisions if the date and time the true threat was threatened to occur has already passed.

ANALYSIS:

Existing constitutional law:

1) Provides a right to free speech and expression. (U.S. Const., 1st amend; Cal. Const., art 1, § 2.)

2) Recognizes certain judicially created exceptions to the rights of freedom of speech and expression, including for true threats and incitement to imminent violence. (*E.g.*, *Virginia v. Black* (2003) 538 U.S. 343, 359.)

Existing federal law:

1) Provides that no provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider. (47 U.S.C. § 230(c)(1).)

2) Provides that no provider or user of an interactive computer service shall be held liable on account of:
   a) Any action voluntarily taken in good faith to restrict access to or availability of material that users consider to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected.
   b) Any action taken to enable or make available to content providers or others the technical means to restrict access to material described above. (47 U.S.C. § 230(c)(2).)

3) Provides that no cause of action may be brought and no liability may be imposed under any state or local law that is inconsistent with items 1) and 2). (47 U.S.C. § 230(e)(3).)

Existing state law:

1) Authorizes a court to issue a temporary restraining order on an ex parte basis, or a restraining order after a noticed hearing, against a person who has harassed another.

a) Conduct that may warrant a restraining order includes a credible threat of violence, defined as a knowing and willful statement or course of conduct that would place a reasonable person in fear for their safety or the safety of their immediate family, and that serves no legitimate purpose, and harassment, which includes a credible threat of violence that would cause a reasonable person to suffer substantial emotional distress. (Code Civ. Proc., § 527.6.)

2) Makes it a crime to willfully threaten to commit a crime that will result in the death or great bodily injury with the specific intent that the statement is to be taken as a threat, even if there is no intent to carry out the threat, when the threat on its face and under the circumstances is so unequivocal, unconditional, immediate, and specific that it conveys to the person threatened a gravity of purpose and an immediate prospect of execution of the threat and thereby causes that person reasonably to be in sustained fear for their own safety or for the safety of their family. (Pen. Code, § 422.)

This bill:

1) Establishes the Online Violence Prevention Act.

2) Defines the following terms:
   a) "Content" means statements or comments made by users and media that are created, posted, shared, or otherwise interacted with by users on an internet-based service or application; and excludes media put on a service or application exclusively for the purpose of cloud storage, transmitting files, or file collaboration.
   b) "Social media platform" means a public or semipublic internet-based service or application that has users in California and that meets both of the following criteria:
      i) A substantial function of the service or application is to connect users and allow users to interact with each other within the service or application.
         (1) A service or application that provides email or direct messaging services does not satisfy 2)(b)(i) on the basis of that function alone.
      ii) The service or application allows users to do all of the following:
         (1) Construct a public or semipublic profile for purposes of signing onto and using the service or application.
         (2) Populate a list of other users with whom an individual shares a connection within the system.

(3) View and navigate a list of connections made by other individuals within the system.
(4) Create or post content viewable by other users, including, but not limited to, on message boards, in chat rooms, or through a landing page or main feed that presents the user with content generated by other users.

iii) For purposes of 2)(b), "public or semipublic internet-based service or application" does not include a service or application used to facilitate communication with a business or enterprise among employees or affiliates of the business or enterprise, provided that access to the service or application is restricted to employees or affiliates of the business or enterprise using the service or application.

c) "User" is a person with an account on a social media platform.
d) "Violent post" is content on a social media platform that contains a true threat against a specific person that is not protected by the First Amendment to the United States Constitution.

3) Requires a social media platform to clearly and conspicuously state whether it has a mechanism for reporting violent posts that is available to users and nonusers of the platform. If the social media platform has such a reporting mechanism, the statement must contain a link to the mechanism.

4) Allows a person who is the target of a violent post, or a person who believes they are the target of a violent post, to seek a court order requiring the social media platform to remove the violent post and any related violent post the court determines shall be removed in the interests of justice.

5) Provides that, if the social media platform has a reporting mechanism as described in 3), a person must notify the social media platform of the violent post and request that it be removed before bringing an action described in 4).

6) Provides that, if a social media platform does not have a reporting mechanism as described in 3), the court may rule on the request at any time.

7) Provides that, if a social media platform has a reporting mechanism as described in 3), the court may not rule on the request until 48 hours has passed since the person notified the social media platform of the violent post and requested its removal. If the social media platform removes the post after the action is filed but before the end of the 48-hour window, the court may dismiss the action.

8) Provides that the person may bring the action in 4) at any time, assuming the platform has been notified if the platform has a reporting mechanism, except that a person may not bring an action, and the court may not issue an order in an action, if the violent post contained a true threat against a specific person and the date and time when the true threat was threatened to occur has already passed.

9) Provides that a court shall award court costs and reasonable attorney fees to a prevailing plaintiff in an action described in 4), and that a court may award reasonable attorney fees to a prevailing defendant if the court finds that the plaintiff's prosecution of the action was not in good faith.

10) Provides that the bill does not apply to a social media platform with fewer than 1,000,000 discrete monthly users.

Comments

This bill provides a remedy for individuals who are the target of threats of violence and incitements to imminent violence on social media platforms. The bill's remedy is limited to the targets of "violent posts," defined as true threats against a specific person, to ensure that only speech unprotected by the First Amendment is affected. The bill defines "social media platform" as an online platform that has a primary function of connecting users for social interactions, which should make clear that this bill applies to classic social media sites—Facebook, Twitter, YouTube, etc.—and not online platforms that incidentally involve user profiles and connections, such as e-commerce sites, news sites that allow comments, or media sites that do not allow users to upload their own content (e.g., HBO Max, Netflix, Spotify). This bill limits its application to social media platforms with 1,000,000 discrete monthly users or more, to ensure that nascent sites are not overly burdened.

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

According to the Assembly Appropriations Committee, cost pressures (Trial Court Trust Fund (TCTF)) to the trial courts in the low-to–mid-hundreds of thousands of dollars to hear and adjudicate actions related to allegedly violent posts on social media. This bill creates a cause of action (that appears similar to an a injunction) that allows a party to seek relief against any social media company that has not removed what the user considers to be a violent post or does not maintain a sufficient reporting system for removing violent posts. This bill allows a plaintiff (or defendant in certain cases) deemed the prevailing party to receive reasonable costs and attorneys' fees. However, it does not expressly provide for damages and may not require a jury trial. It is unclear how many new claims will be filed

statewide, but if 10 cases are filed in state civil court annually requiring three to five days, or 24 to 40 hours of court time, at an average cost per hour of $1,000 in workload costs, the cost to the trial courts would be between $240,000 and $400,000 annually. Although courts are not funded on the basis of workload, increased pressure on the TCTF and staff workload may create a need for increased funding for courts from the General Fund to perform existing duties.

SUPPORT: (Verified 8/23/22)

None received

OPPOSITION: (Verified 8/23/22)

None received

ASSEMBLY FLOOR: 70-0, 8/23/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Flora, Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Chen, Choi, Davies, Mike Fong, Gallagher, Gray, Kiley, Seyarto, Smith

Prepared by: Allison Meredith / JUD. / (916) 651-4113
8/23/22 15:34:26

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

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UNFINISHED BUSINESS

Bill No: SB 1066
Author: Hurtado (D)
Amended: 6/20/22
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 4-1, 4/19/22
AYES: Hurtado, Cortese, Kamlager, Pan
NOES: Jones

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/19/22
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NOES: Bates, Jones

SENATE FLOOR: 27-8, 5/24/22
AYES: Atkins, Becker, Bradford, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NOES: Bates, Borgeas, Dahle, Grove, Jones, Melendez, Ochoa Bogh, Wilk
NO VOTE RECORDED: Allen, Archuleta, Caballero, Hertzberg, Nielsen

ASSEMBLY FLOOR: 61-5, 8/22/22 - See last page for vote

SUBJECT: California Farmworkers Drought Resilience Pilot Project

SOURCE: Author

DIGEST: This bill establishes the "California Farmworkers Drought Resilience Pilot Project" (Pilot Project) to provide supplemental pay in the forms of cash assistance for eligible households to help meet their basic needs.

Assembly Amendments result in the pilot program being administered by "eligible entities" who receive grants for this purpose from the California Department of Social Services (CDSS). These amendments further allow CDSS to establish an appropriate method, process, and structure for grant management, fiscal

accountability, payments to eligible households, and technical assistance and supports for entities receiving grants under this Pilot Project.

ANALYSIS:

Existing law:

1) Requires, subject to an appropriation for this purpose in the annual Budget Act, the California Department of Social Services (CDSS) to administer the California Guaranteed Income Pilot (GIP) Program to provide grants to eligible entities for the purpose of administering pilot programs and projects that provide a guaranteed income to participants. Further requires CDSS to prioritize funding for pilot programs and projects that serve California residents who age out of extended foster program at or after 21 years of age or who are pregnant individuals. *(WIC 18997(a))*

2) Requires CDSS, in consultation with relevant stakeholders, to determine the methodology for, and manner of, distributing grants awarded pursuant to GIP Program, and further requires CDSS ensure the funds are awarded in an equitable manner to eligible entities in both rural and urban counties and in proportion to the number of individuals anticipated to be served by an eligible entity's pilot program or project. *(WIC 18997(a))*

3) Requires, in order for an eligible entity to receive GIP Program grant funds, the entity to do both of the following:
   a) Present commitments of additional funding for pilot programs and projects to be funded with a grant received pursuant to this chapter from a nongovernmental source equal to or greater than 50 percent of the amount of funding to be provided to the pilot program or project from a GIP Program grant; and,
   b) Agree to assist CDSS in obtaining, or to pursue, to the extent necessary, all available exemptions or waivers to ensure that guaranteed income payments made under those pilots and projects are not considered income or resources for the recipient of the GIP or any member of their household in any means-tested federal, state, or local public benefit programs. *(WIC 18997(b))*

4) Requires, notwithstanding any other law, guaranteed income payments received by an individual from a GIP program or project to not be considered income or resources for purposes of determining the individual's, or any member of their household's, eligibility for benefits or assistance, or the amount or extent of benefits or assistance, under any state or local benefit

assistance program. Further requires CDSS to identify federal benefit and assistance programs that require an exemption or waiver in order for a guaranteed income payment to excluded as income or resources and seek such a waiver. If unable to obtain an exemption or waiver, CDSS still implement the GIP Program and may consider alternatives to prevent adverse consequences for the participants, in consultation with the Legislature and stakeholders. *(WIC 18997(c))*

5) Requires, subject to federal law and any waivers received for the implementation of this provision, the GIP Program payments to not be considered as income or resources for a period of 12 months from receipt for the purposes of determining eligibility to receive benefits, or the amount or extent of medical assistance, under the Medi-Cal program. *(WIC 18997(d))*

6) Requires CDSS to review and evaluate GIP Program funded pilot programs and projects to determine, at a minimum, the economic impact of the programs and projects and their impact on outcomes of individuals who receive guaranteed income payments, as provided. Further requires CDSS to consult with stakeholders and legislative staff on the details of, and data components to include in, the evaluation, among other things, and submit a report to the Legislature regarding this review and evaluation, as provided. *(WIC 18997(e))*

7) Requires CDSS to report to the Legislature, and post on its internet website, information about the GIP Program grants funded, including which entities received grants and the number of expected recipients, among other things. *(WIC 18997(e))*

8) Defines, for purposes of the GIP Program, "eligible entity" as either of the following:
   a) A city, county, or city and county;
   b) A nonprofit organization that is exempt from federal income taxation, as provided, and that provides a letter of support for its pilot or project from any county or city and county in which the organization will operate its pilot or project. *(WIC 18997(f))*

This bill:

1) Establishes the Pilot Project to provide supplemental pay in the form of cash assistance for eligible households to help meet their basic needs, with CDSS to administer the pilot project subject to an appropriation by the Legislature for this purpose.

2) Defines the following:
   a) "Eligible entity" means a public or private entity that provides services to the farmworker population;
   b) "Eligible household" means a household in which one member of the household is a farmworker;
   c) "Farmworker" has the same meaning as the term "agricultural employee," as defined in Section 1140.4 of the Labor Code; and,
   d) "Supplemental pay" means unconditional cash payments of equal amounts issued monthly to eligble households with the intention of securing the economic security of those households.

3) Requires CDSS implement the pilot project by awarding grants to eligible entities for the purpose of issuing supplemental pay to eligible households and further requires CDSS, in consultation with relevant stakeholders, to determine the methodology for, and manner of, distributing grants awarded and ensure grants are awarded in an equitable manner to eligible entities.

4) Requires, in order to receive pilot program funds, an eligible entity: present commitments of additional nongovernmental funding to supplement the grant to be received by the entity in an amount equal to or greater than 50 percent of the amount of funding to be provided to the entity from the grant pursuant to this chapter; and, agree to assist the department in obtaining, or to pursue to the extent necessary, all available exemptions or waivers to ensure that supplemental pay issues to eligible households is not considered income or resources of the household for purposes of eligibility for any means-tested federal benefit programs.

5) Requires supplemental pay received pursuant to the pilot program not be considered income or resources for purposes of determining the household's eligibility for benefits or assistance, or the amount or extent of benefits or assistance, as provided.

6) Allows CDSS to establish an appropriate method, process, and structure for grant management, fiscal accountability, payments to eligible households, and technical assistance and supports for entities receiving a grant under this chapter that ensures transparency and accountability in the use of state funds. Allows CDSS, as their discretion, to contract with one or more entities for purposes of administering the grants and meeting the requirements of this pilot program, as provided.

7) Allows CDSS to accept and expend funds from nongovernmental sources for the purposes of this pilot and further allows them to accept in-kind contributions, including, but not limited to, financial mentorship services.

8) Prohibits a householder from continuing to receive supplemental payments if the household no longer includes a farmworker, and further requirements that a newly ineligible household not be required to forfeit any supplemental pay already received.

9) Requires CDSS to work with at least one independent, research-based institution to identify existing, and establish additional, outcome measurements. Requires these measurements inform an evaluation report that shall be provided to the Legislature on or before December 31, 2026, as provided.

10) Sunsets these provisions on January 1, 2027.

Comments

According to the author, "in recent years, California's farmworkers have been impacted by unprecedented events, including intensifying and worsening drought. As the length and frequency of drought periods become more uncertain, some farmers have to make the tough decision to reduce planting, and in some cases, fallow portions of their land. With fewer crops to tend for shorter periods of time, farmworkers are expected to continue seeing a reduction in their hours and their ability to find work."

The author goes onto note, "California's farmworkers are a crucial part of the state's economy. They put food on the table for people throughout our entire country, and work tirelessly to do so. In 2021 alone, California's drought led to $1.2 billion in direct costs to the agriculture industry and the loss of over 8,500 jobs. SB 1066 addresses the impacts of drought on farmworkers by creating the California Supplemental Pay for Farmworkers Pilot Project, providing eligible farmworker households with financial assistance to meet basic needs. The pilot project monthly payments to households who meet specific eligibility criteria, allowing the funds to go to the farmworkers who need them most."

Farmworkers in California. California is the largest producer of agricultural goods in the United States, and is one of the largest agricultural producing regions in the world. As a result, farmworkers play a key role in the operation and delivery of the state's food system, but continue to face a number of economic disadvantages when compared to other Californians. The HCD reports that depending on the

source, the number of farmworkers residing in California ranges from 391,700 to 802,662. These estimates include both migratory and permanent farmworkers. A large portion of these individuals are also estimated to be undocumented.[1]

According to a 2018 report published by the HCD, on average, farmer incomes are less than half of the area median household income of other Californians. The report also indicates a number of trends that suggest a changing farmworker population in California. This includes a decrease in the number of single farmworkers, from 59 percent in 1990 to 25 percent in 2012, and fewer farmworkers migrating from farm to farm on an annual basis, from 43 percent in 1990 to 16 percent in 2012.[2] Since the HCD is focused on housing, their report concludes that these shifting demographics have a variety of implications for the types of housing needed for farmworkers, including greater need for affordable housing, greater need for permanent housing, and greater need for family-friendly housing. It seems safe to assume that these trends have implications for needs beyond housing, with implications for changing needs in regards to supportive services and safety net programs as well.

California Guaranteed Income Pilot (GIP) Program. Through the 2021-22 Budget *(AB 153, Committee on Budget, Chapter* 86, *Statutes of 2021)* the California GIP Program was established to provide grants to eligible entities for the purpose of administering pilot programs and projects that provide a guaranteed income to participants. The budget for the GIP Program is $35 million (General Fund) to be spent over five years. CDSS is the administering department and is responsible for prioritizing funding for pilot programs and projects that serve California residents who age out of the extended foster care program at or after 21 years of age or individuals who are pregnant. CDSS, in consultation with stakeholders, is also responsible for determining the methodology for, and manner of, distributing GIP program grants. CDSS and the entities receiving funding, are also required to seek waivers or exemptions as necessary to prevent guaranteed income payments from being calculated as income or resources for the purpose of determining a recipient, or member of their household's, eligibility for benefits or assistance, or the amount or extent of benefits or assistance, provided under any state or local benefit or assistance program, the Medi-Cal program, and federal benefit and assistance programs.

Entities eligible to receive GIP Program grants are: cities, counties, or a city and county; and, a nonprofit organization, as provided, that provides a letter of support

[1] https://www.hcd.ca.gov/policy-research/specific-policy-areas/farmworkers.shtml
[2] https://www.hcd.ca.gov/policy-research/plans-reports/docs/sha_final_combined.pdf

for its pilot or project from any county or city and county in which the organization will operate its pilot project. Additionally, in order to receive funding, the eligible entity must present commitments of additional funding for GIP program pilots and projects from a nongovernmental source equal to or greater than 50 percent of the amount of funding provided by a GIP grant. The eligible entity must also agree to assist CDSS in obtaining, or to pursue, all available exemptions or waivers to ensure that guaranteed income payments made under the funded pilots and projects are not considered income or resources for the recipient of the guaranteed income payments or any member of their household in any means-tested federal, state, or local public benefit programs.

The GIP program in part stems from SB 739 (Cortese, 2021) which would have created a UBI pilot project for foster youth who exited care at 21 years of age, administered by CDSS. SB 739 would have provided for monthly $1,000 UBI payments to former foster youth for three years and defined UBI as unconditional cash payments of equal amounts issued monthly to individual residents of California with the intention of ensuring the economic security of the recipients.

CDSS is currently working with stakeholders to develop a Request for Applications (RFA) process for GIP program funding. CDSS expects to select prospective applicants for funding through the RFA process this year. The RFA guidelines are expected to be posted later this spring.

Related/Prior Legislation:

AB 153 (Committee on Budget, Chapter 86, Statutes of 2021) created the GIP Program, among other things, to provide grant funding to eligible entities for guaranteed income pilots or projects, as provided.

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

According to the Assembly Appropriations Committee:

- Subject to an appropriation by the Legislature for this purpose, CDSS estimates annual General Fund (GF) costs of $3 million to $5 million for three years, to administer the program, including initial implementation, contracting for an independent research-based program evaluation, and meeting other requirements.

- CDSS estimates GF cost pressures of an unknown amount, but likely in the hundreds of millions of dollars annually for the life of the pilot, to fund the grants. The number of participants is unknown and the bill does not specify the

monthly payment amount so exact costs are difficult to pinpoint. For illustration, if 50,000 farmworkers each received a $200 monthly payment for 36 months, the cost to fund those payments would be $360 million.

Earlier this year, the bill's author submitted a one-time $20 million GF budget request to fund the California Farmworkers Drought Resilience Pilot Project in this bill. The project was not funded.

SUPPORT: (Verified 8/22/22)

La Cooperative Campesina de California

OPPOSITION: (Verified 8/22/22)

None received

ASSEMBLY FLOOR: 61-5, 8/22/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Low, Maienschein, Mathis, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Megan Dahle, Fong, Nguyen, Seyarto, Smith
NO VOTE RECORDED: Bigelow, Chen, Choi, Cunningham, Davies, Flora, Gallagher, Kiley, Lackey, Levine, Mayes, Patterson, Valladares, Voepel

Prepared by: Marisa Shea / HUMAN S. / (916) 651-1524
8/22/22 19:59:27

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

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UNFINISHED BUSINESS

Bill No: SB 1079
Author: Portantino (D), et al.
Amended: 6/29/22
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 12-1, 3/22/22
AYES: Gonzalez, Allen, Archuleta, Becker, Cortese, Dodd, McGuire, Min, Newman, Rubio, Skinner, Wieckowski
NOES: Melendez
NO VOTE RECORDED: Bates, Dahle, Limón, Wilk

SENATE JUDICIARY COMMITTEE: 8-1, 5/3/22
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, Stern, Wiener
NOES: Jones
NO VOTE RECORDED: Borgeas, Wieckowski

SENATE FLOOR: 28-4, 5/26/22
AYES: Allen, Archuleta, Atkins, Becker, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hueso, Hurtado, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wiener, Wilk
NOES: Dahle, Grove, Melendez, Nielsen
NO VOTE RECORDED: Bates, Borgeas, Bradford, Hertzberg, Jones, Kamlager, Ochoa Bogh, Wieckowski

ASSEMBLY FLOOR: 76-0, 8/24/22 - See last page for vote

SUBJECT: Vehicles: sound-activated enforcement devices

SOURCE: Author

DIGEST: This bill requires the California Highway Patrol (CHP) to evaluate the efficacy of sound-activated enforcement devices by evaluating devices from at least three different companies.

Assembly Amendments recast provisions of the bill from a six unnamed city pilot to evaluate the use of sound-activated devices to enforce vehicle noise limit laws, to an evaluation by the CHP of the efficacy of sound-activated enforcement devices, as specified.

ANALYSIS:

Existing law:

1) Requires every motor vehicle subject to registration to be equipped with an adequate muffler in constant operation and properly maintained to prevent any excessive or unusual noise and prohibits a muffler or exhaust system from being equipped with a cutout, bypass, or similar device.

2) Prohibits the modification of an exhaust system of a motor vehicle in a manner that will amplify or increase the noise emitted by the motor of the vehicle so that the vehicle exceeds existing noise limits when tested in accordance with specified standards.

3) Requires, under existing constitutional provisions, that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

4) Provides, under the California Public Records Act (CPRA), that public records are open to public inspection upon request, unless the records are otherwise exempt from public disclosure.

5) Defines "public records" for CPRA purposes to include any writing containing information relating to the conduct of the public's business that is prepared, owned, used, or retained by any state or local agency, regardless of physical form or characteristics; and defines a "writing" to include any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

This bill:

1) Defines "sound-activated enforcement device" or "device" to mean an electronic device that utilizes automated equipment that activates when the noise levels have exceeded the legal sound limit, as specified, and is designed to

obtain clear video of a vehicle and its license plate and requires a sound-activated enforcement device to do all of the following:

a) Record audio, precision accuracy noise levels, and high definition video in two directions.

b) Utilize an automated system that triggers when excessive vehicle noise over the limit is detected and save the data for review.

c) Automatically delete any evidence not related to a violation.

d) Permit the department to manually review evidence to ensure a violation has occurred.

e) Conform to the class 1 accuracy standards in the International Electrotechnical Commission's (IEC) standard IEC 61672:2013, or any other accuracy standard determined to be appropriate by the CHP.

2) Requires the CHP to evaluate the efficacy of sound-activated enforcement devices by evaluating devices from at least three different companies.

3) Requires the CHP, on or before January 1, 2025, to prepare and submit its findings and recommendations from the evaluation in a report to the Legislature, which shall include all of the following information:

a) How effective the devices are at determining that a vehicle was not equipped with an adequate muffler in constant operation and properly maintained in accordance with the requirements, as specified.

b) How often the device identified a potential violation that was not related to having an adequate muffler, and the types of sounds other than a loud muffler that triggered the device.

c) What percentage of time an officer was unable to determine the source of the sound that activated the device.

d) How often the device was required to be serviced.

e) What, if any, technology does the sound-activated enforcement system use to determine the direction or source of the sound that violated the sound limits, as specified.

f) Where the devices were located, and whether the location had any consequences to the effectiveness of the device.

g) The number of devices the department tested and from which companies were the devices that were tested.

h) Recommendations on all of the following:

i) Which, if any, device or devices would the department recommend be used for the purposes of enforcing muffler requirements, and the reasons for that determination. If the department determines that it does not recommend any of the devices tested, the report shall include the standards and parameters that shall be met by future technology.

ii) What, if any, restrictions should be placed on the use of sound-activated enforcement devices, including, but not limited to, the decibel level setting for triggering a potential violation for the purposes of enforcement.

iii) Where the devices should be optimally located in order to reduce the chances of a false violation.

iv) Descriptions and explanation of any necessary and associated training that an individual reviewing these violations would need to go through in order to operate the device, including recommendations for what is necessary for a robust human review process.

v) Any other recommendations the department believes would be necessary for authorizing the use of sound-activated enforcement devices.

i) A video demonstrating the device. Requires the video to be edited to remove any personally identifying information, including the blurring of persons recorded in the video, street addresses, and license plates.

4) Requires the CHP to delete all videos recorded on a highway by a device within five days of the video being recorded. However, requires the CHP to keep 15 videos from the devices of each company evaluated for the purposes of preparing the report and documenting the issues related to each device that helped the CHP make its recommendations. Requires the CHP to not keep any recording that picked up audio of a person speaking, if recorded on a highway.

5) Provides that information collected and maintained by the CHP using a sound-activated enforcement device that could be used to identify the identity or location of any individual shall be confidential and only be used for purposes of this bill, and shall not be disclosed to any other persons, including, but not limited to, any other state or federal government agency or official for any other

purpose, except as required by the reporting requirements in this bill, state or federal law, court order, or in response to a subpoena in an individual case or proceeding.

Background

Loud cars are a common source of noise pollution. California law requires most vehicles to be equipped with mufflers to ensure a sound level of 80 decibels (db) or less to protect hearing. When someone gets a ticket for having a bad muffler or a modified muffler, they are given the option to fix the muffler in lieu of paying the entire fine (motorcycles are not eligible to receive a fix-it ticket for loud mufflers). They can prove the muffler is fixed by taking their car to a Bureau of Automotive Repair's approved vendor to test a vehicle's db. When a vehicle is tested for the purposes of a fix-it ticket, the vehicle is tested to see if it is at 95 db in order to past the test. The higher db for the fix-it test reflects the test conditions for the vehicle (indoors vs. outdoor setting). Generally, 95 db is comparable to the noise emitted by a food processor; a shouted conversation; or the inside of a subway car.

According to the Center for Disease Control (CDC), about 40 million U.S. adults between 20-69 years of age have noise-induced hearing loss. "Over time, listening to loud sounds at high db levels can cause hearing loss—or other hearing problems like a ringing sound in your ear that won't go away. The louder a sound is, and the longer you are exposed to it, the more likely it will damage your hearing."

The CDC outlines that continual exposure to noise can cause stress, anxiety, depression, high blood pressure, heart disease, and many other health problems. CDC estimates that the costs of the first year of hearing loss treatment in older adults is projected to increase more than 500% from $8 billion in 2002 to an estimated $51 billion in 2030. CDC outlines that 85 db is the approximate point at which extended exposure can cause hearing damage.

In recent years, the Legislature has taken several steps to address the issue of loud mufflers. AB 1824 (Committee on Budget, Chapter 38, Statutes of 2018) removed the fix-it ticket authority for having a modified or inadequate muffler. After concerns were raised about the impacts of this provision from legal services groups, the Legislature modified this restriction with the passage of SB 112 (Committee on Budget, Chapter 364, Statutes of 2019) to only restrict fix-it tickets for modified mufflers for motorcycles.

SB 1079 seeks to introduce the new technology of sound automated detection devices to detect illegal vehicle exhaust noise to California.

How does the technology work? The sound automated detection devices described in this bill are known as noise cameras. These cameras are relatively new, as they were developed in 2020 and have only been in use since early 2021. Each camera is priced at around $25,000. These devices are cameras equipped with a microphone and an embedded sound meter. The camera allows the user to set a defined noise limit. When that pre-defined noise limit is exceeded, the camera begins to record the noise event. The noise level, the audio at the time of the event, and the video of the event are all recorded simultaneously. Functionally, these cameras perform similarly to red light cameras. However, according to the manufacturer of these cameras, ticketing is not automatic; it requires manual review. The system permits a reviewer to identify the offending vehicle and generate a report with a picture of the vehicle, the date, time, db level, and a vehicle's license plate. The report can then be used to issue a ticket.

The noise cameras do not have the technology to differentiate between sounds. The system is not automatic and, as noted, requires manual review to determine whether the noise event that triggered the camera was a violating vehicle or another source of noise such as a siren, horn, gunshot, brew bike, or a myriad of other possibilities. Similarly, if a vehicle is in a group of other vehicles, perhaps at an intersection, there may be an issue recognizing which vehicle violated the sound limit, even with a manual review. The cameras are currently being used in New York City; Knoxville, Tennessee; the Royal Borough of Kensington; and Chelsea in London. Philadelphia is considering using the cameras. Conversely, in Toronto, city councilors decided not to pursue the use of noise cameras because, among other issues, the "automated technology was not able to discern between sources of noise and could not identify individual offending vehicles to the degree that would meet the evidentiary test required for court purposes." This means that a manual review would be required.

Comments

1) *Purpose of the bill.* According to the author, "This bill will have CHP evaluate the use of automated noise cameras to detect illegal vehicle exhaust noise. Noise pollution in cities is getting demonstrably worse. Law enforcement officers are currently the only mechanism in which illegal exhaust noise can be ticketed and enforcement action taken. Nevertheless, the problem is that these violations can occur anywhere, at any time, in multiple places at once, and typically while moving at high speeds, making the reality of consistent enforcement much more difficult. When CHP completes its evaluation, California can look to implement these systems."

2) *Assembly amendments turn pilot into a CHP evaluation of the new technology.* SB 1079, as approved by the Senate, would have authorized six unnamed cities to conduct a pilot program to evaluate the use of sound-activated enforcement devices to capture vehicle noise levels that exceed the legal sound limit; and required information collected and maintained by a city using a sound-activated enforcement device to be confidential. Stakeholders and Assembly policy committees raised a number of concerns about the pilot program, including about the fact that it would have authorized issuance of citations (and fines), even though the technology used as the basis for issuance of citations is untested and unproven, at least on a large scale.

   Based upon those concerns, this bill was recently recast as one to require the CHP to conduct a study evaluating the efficacy of sound-activated enforcement devices that are designed to measure vehicle noise levels and report back to the Legislature about its findings. This bill also makes information collected for the study and maintained by the CHP largely confidential.

3) *CPRA.* The recent amendments to SB 1079 contain a specific exemption to the CPRA. As detailed in the Assembly Judiciary Committee analysis of this bill, the CPRA was enacted in 1968 (Chapter 1473, Statutes of 1968), and similar to the federal Freedom of Information Act, the CPRA requires that the documents and "writings" of a public agency be open and available for public inspection, unless they are exempt from disclosure. The CPRA is premised on the principle that 'access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state." It defines a "public record" to mean "any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics."

   This bill seeks to enact a specific exemption to the CPRA, by providing that all "information collected and maintained by the department using a sound-activated enforcement device, that could be used to identify the identity or location of any individual" and allowing it to "only be used for purposes of this section." In addition, this bill prohibits the information from being "disclosed to any other persons, including, but not limited to, any other state or federal government agency or official for any other purpose, except as required by the reporting requirements in this section, state or federal law, court order, or in response to a subpoena in an individual case or proceeding."

4) *Removal of opposition.* The amendments taken in the Assembly addressed the privacy and transparency concerns of stakeholders. ACLU California and others have officially removed opposition.

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

According to the Assembly Appropriations Committee:

- According to CHP, testing sound-activated devices, as required by this bill, may require a specialized unit comprised of one sergeant, three officers, and two audio/video specialists. CHP estimates the personnel cost of such a unit to be approximately $1,584.37 for every hour of testing. CHP calculates the annual personnel cost of a unit focused on the sound-activated enforcement device study to be approximately $3 million.

- In addition to personnel costs, CHP notes it might incur other significant administrative, material and ongoing equipment maintenance and calibration costs for the devices themselves, as well as costs for travel.

- CHP reports difficulty estimating costs for this bill and developed its cost estimate from its experience with testing work CHP conducted for DMV license plate testing efforts that were conducted by the CHP's Commercial Vehicle Section.

SUPPORT: (Verified 8/24/22)

Barbary Coast Neighborhood Association
City of San Diego
City of Santa Monica

OPPOSITION: (Verified 8/24/22)

None received

ARGUMENTS IN SUPPORT: According to the City of Santa Monica, "Noise pollution is an unwanted or disturbing sound that causes adverse reactions for humans and other living creatures. Loud noises in the street can disrupt walking or cycling, but also can cause hearing loss and pose dangers to physical and cognitive health. Exposure to loud sounds has been shown to raise levels of stress hormones, including cortisol, adrenaline, and noradrenaline. Chronically high levels of these hormones can impact heart disease, hypertension, stroke, immune responses, and cognitive functioning.

“The study called for in SB 1079 will provide the Legislature with key findings that we hope will demonstrate the efficacy of these devices and will then encourage the Legislature to adopt a pilot program as was originally called for in this bill so that cities such as Santa Monica may use this enforcement tool that will help crack down on these noisily modified vehicles and motorcycles that adversely impact our resident’s quality of life.”

ASSEMBLY FLOOR: 76-0, 8/24/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Gray, Holden, Irwin

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8/24/22 19:23:17

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

SENATE RULES COMMITTEE SB 1081
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UNFINISHED BUSINESS

Bill No: SB 1081
Author: Rubio (D)
Amended: 6/29/22
Vote: 21

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

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/19/22
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SENATE FLOOR: 38-0, 5/26/22
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Hertzberg, Jones

ASSEMBLY FLOOR: 77-0, 8/24/22 - See last page for vote

SUBJECT: Disorderly conduct: peeping, recording, and distribution of intimate images

SOURCE: California District Attorneys Association

DIGEST: This bill defines the terms "distribute" and "identifiable" for purposes of the existing crime of unlawful distribution of a private image, also known as "revenge porn."

Assembly Amendments amend the definition of "distribute" to include exhibiting in public or giving possession.

ANALYSIS:

Existing law:

1) Makes it a misdemeanor for a person to intentionally distribute an image of the intimate body parts of another or of the person depicted engaged in a sex act under circumstances in which the persons agreed or understood that the image would remain private, and the person distributing the image knows or should know that the distribution of the image will cause serious emotional distress, and the person depicted suffers that distress. This crime is also commonly known as "revenge porn." (Pen. Code, § 647, subd. (j)(4)(A).)

2) Provides that distribution of the image as described below is not a violation of the law:

   a) The distribution is made in the course of reporting an unlawful activity;

   b) The distribution is made in compliance with a subpoena or other court order for use in a legal proceeding; or,

   c) The distribution is made in the course of a lawful public proceeding. (Pen. Code, § 647, subd. (j)(4)(D).)

3) Defines "intimate body part" to mean "any portion of the genitals, the anus and, in the case of a female, also includes any portion of the breasts below the top of the areola, that is either uncovered or clearly visible through clothing." (Pen. Code, § 647, subd. (j)(4)(C).)

4) States that a person intentionally distributes an image described above when that person personally distributes the image, or arranges, specifically requests, or intentionally causes another person to distribute that image. (Pen. Code, § 647, subd. (j)(4)(B).)

This bill:

1) Provides that it is also unlawful for a person who intentionally causes the image to be distributed.

2) Defines "intentionally causes an image to be distributed" to mean "when that person arranges, specifically requests, or intentionally causes another person to distribute the image."

3) Defines "distribute" to include exhibiting in public or giving possession.

4) Defines "identifiable" through cross-reference to the definition that currently exists in the Penal Code section, which provides that the term means "capable of identification, or capable of being recognized, meaning that someone, including the victim, could identify or recognize the victim. It does not require the victim's identity to actually be established."

5) Exempts the distribution of an image that is related to a matter of public concern or public interest, but clarifies that a distributed image is not a matter of public interest or public concern solely because it depicts a public figure.

Comments

According to the author, "Under existing law, the statute does not provide a specific definition of what it means to 'distribute' a pornographicimage. In fact, 'there is no indication that the term 'distribute[s]' was intended to have a technical legal meaning[] or to mean anything other than its commonly used and known definition . . . ' in the context of Penal Code section 647(j)(4). (*People v. Iniguez* (2016) 247 Cal. App. 4th Supp. 1, 10.) The *Iniguez* court referenced the Merriam-Webster Dictionary as an appropriate source to ascertain the common definition of ;distribute.' Today, Merriam-Webster defines *distribute* as 'to give out or deliver.' (Merriam-Webster Dict. Online <https://www.merriam-webster.com/dictionary/ distribute [as of September 1, 2021].) This definition would suggest that distribution requires a transfer of possession of the image from one person to another; merely displaying or otherwise showing a third-party an intimatephoto would not qualify."

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

According to the Assembly Appropriations Committee:

- Cost pressure (Trial Court Trust Fund) possibly in the low-to-mid-hundreds of thousands of dollars to the trial courts in increased workload. This bill expands an existing misdemeanor related to revenge porn. Generally, Penal Code section 647, subdivision (j) is punishable as a misdemeanor and subject to up one year in county jail. A defendant charged with a misdemeanor is entitled to no-cost legal representation and a jury trial. If 10 new crimes are filed annually statewide and proceed to trial resulting in three days of court time, at an estimated cost of approximately $8,000 for an eight-hour court day, the approximate workload cost to the courts is $240,000 annually. Although courts are not funded on the basis of workload, increased pressure on the Trial Court

Trust Fund and staff workload may create a need for increased funding for courts from the General Fund (GF) to perform existing duties.

- Non-reimbursable costs (local funds) of an unknown, but potentially significant amount, to the counties in increased incarceration costs. This bill expands an existing six-month misdemeanor with subsequent offenses being punishable by up to one year in county jail. This may result in more people being sentenced to county jail. The average annual cost to house a person in county jail is approximately $47,000. If this bill results in three more people being sentenced to county jail statewide for the crime of revenge porn, the total cost to the counties would be $141,000. Proposition 30 (2012) and Government Code section 17556, subdivision (g) prohibits reimbursement for a criminal penalty change or expansion.

SUPPORT: (Verified 8/24/22)

California District Attorneys Association (source)
Arcadia Police Officers Association
Burbank Police Officers' Association
California Coalition of School Safety Professionals
California State Sheriffs' Association
Claremont Police Officers Association
Corona Police Officers Association
Culver City Police Officers' Association
Fullerton Police Officers' Association
Inglewood Police Officers Association
Los Angeles Professional Peace Officers Association
Los Angeles School Police Officers Association
Newport Beach Police Association
Palos Verdes Police Officers Association
Placer County Deputy Sheriffs' Association
Pomona Police Officer Association
Prosecutors Alliance of California
Riverside Police Officers Association
Riverside Sheriffs' Association
Santa Ana Police Officers Political Action Committee
Upland Police Officers Association

OPPOSITION: (Verified 8/22/22)

ACLU California Action
California Attorneys for Criminal Justice

California Public Defenders Association
Pacific Juvenile Defender Center

ARGUMENTS IN SUPPORT: According to the Prosecutors Alliance of California, "Under existing law, the statute defining the crime of revenge porn does not provide a specific definition of what it means to "distribute" an image. Without a statutory definition of distribution as it applies to this crime, there is ambiguity as to whether distribution requires a transfer of an image from one person to another, or whether simply publicly displaying such an image is sufficient to meet the element of distribution."

ARGUMENTS IN OPPOSITION: According to the Pacific Juvenile Defender Center, who is opposed unless amended, "Without question, the kind of conduct SB 1081seeks to deter and punish is most often engaged in by youth. As the Legislature already knows, as outlined above, youth, including young adults under the age of 26, are impetuous, irrational and susceptible to peer pressure. SB 1081 will not deter youth from sending unsolicited sexual content. The Legislature should invest in state mandated programs in communities and schools, designed to *effectively* deter youth from distributing intimate images.

"Accordingly, PJDC respectfully urges your "NO" vote on SB 1081 . . . unless it is amended to exclude youth under age 26."

ASSEMBLY FLOOR: 77-0, 8/24/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Gray, Irwin

Prepared by: Stella Choe / PUB. S. /
8/24/22 19:23:28

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

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UNFINISHED BUSINESS

Bill No: SB 1084
Author: Hurtado (D)
Amended: 6/30/22
Vote: 27 - Urgency

SENATE JUDICIARY COMMITTEE: 10-0, 4/5/22
AYES: Umberg, Borgeas, Caballero, Durazo, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Gonzalez

SENATE AGRICULTURE COMMITTEE: 4-0, 4/27/22
AYES: Borgeas, Hurtado, Caballero, Glazer
NO VOTE RECORDED: Eggman

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/19/22
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SENATE FLOOR: 31-0, 5/24/22
AYES: Allen, Atkins, Bates, Becker, Borgeas, Bradford, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Grove, Hueso, Hurtado, Jones, Laird, Leyva, McGuire, Melendez, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wilk
NO VOTE RECORDED: Archuleta, Caballero, Gonzalez, Hertzberg, Kamlager, Limón, Min, Newman, Wiener

ASSEMBLY FLOOR: 75-0, 8/22/22 - See last page for vote

SUBJECT: Agricultural land: foreign ownership and interests: foreign governments

SOURCE: Author

DIGEST: This bill prohibits foreign governments and their state-controlled enterprises, as defined, from newly acquiring an interest in agricultural land in

California after January 1, 2023. This bill also requires the California Department of Food and Agriculture (CFDA) to compile an annual report on the extent of, and any recent changes in, foreign ownership over agricultural land, water rights, water desalination facilities, energy production, energy storage, and energy distribution in California, including any possible impacts on Californians' food security.

Assembly Amendments (1) clarify that the agricultural land ownership prohibition does not apply to federally recognized Indian tribes; (2) eliminate the list of the top 10 nations owning the most agricultural land in California from the required annual report; (3) require the annual report to include information about changes in the leasing by foreign governments of agricultural land, water rights, water desalination facilities, energy production, energy storage, and energy distribution; and (4) add an urgency clause.

ANALYSIS:

Existing law:

1) Establishes that noncitizens have the same property rights as citizens. (Cal. Const., art. I, § 20.)

2) Provides that any person, whether citizen or alien, may take, hold, and dispose of property, real or personal, within this State. (Civ. Code § 671.)

3) Establishes the U.S. Agricultural Foreign Investment Disclosure Act (Act). (7 U.S.C. §§ 3501 – 3508.)

4) Defines "foreign person," for purposes of the Act, to include foreign governments as well as specified foreign individuals and legal entities. (7 U.S.C. § 3508(3).)

5) Defines "agricultural land," for purposes of the Act, to include any land used for agricultural, forestry, or timber production purposes as prescribed by the U.S. Department of Agriculture (USDA) regulations. (7 U.S.C. 3508(1).)

6) Requires foreign persons, as part of the Act, to report information regarding current and future acquisitions of U.S. agricultural land, including the name of the owner, the total acreage, and the intended use of the land, among other specified things. (7 U.S.C. § 3501.)

7) Directs the USDA to transmit the reports generated pursuant to 6), above, to the corresponding state department of agriculture, or such other appropriate state

agency as the Secretary considers advisable, at six month intervals. (7 U.S.C. § 3505.)

8) Provides that any report submitted to the Secretary under 6), above, shall be available for public inspection at the USDA in the District of Columbia not later than 10 days after the date on which such report is received. (7 U.S.C. 3506.)

This bill:

1) Defines "agricultural land" to mean:

   a) Land currently used for, or, if currently idle, land last used within the past five years, for farming, ranching, or timber production, except land not exceeding ten acres in the aggregate, if the annual gross receipts from the sale of the farm, ranch, or timber products produced thereon do not exceed $1,000; or

   b) Land exceeding 10 acres in which 10 percent is stocked by trees of any size, including land that formerly had such tree cover and that will be naturally or artificially regenerated.

2) Defines "foreign government" to mean a government other than the government of the United States, its states, territories, or possessions.

3) Defines "state-controlled enterprises" to mean a business enterprises, however denominated, in which the government has a controlling interest.

4) Defines "controlling interest" to mean either of the following:

   a) Possession of 51 percent or more of the ownership interests in an entity.

   b) A percentage ownership interest in an entity of less than 51 percent, if the foreign government actually directs the business and affairs of the entity without the requirement or consent of any other party.

5) Defines "interest" in land to mean any estate, remainder, or reversion, as specified, or portion thereof, or an option pursuant to which one party has a right to cause legal or equitable title to agricultural land to be transferred.

6) Prohibits a foreign government or its state-controlled enterprises from newly purchasing, acquiring, or holding any interest in agricultural land in California beginning January 1, 2023, except where application of the prohibition would violate a treaty between the U.S. and another country. Does not apply to federally recognized Indian tribes.

7) Directs CDFA to compile an annual report addressing all of the following:

   a) Total amount of California agricultural land that is under foreign ownership or lease.

   b) Percentage change in foreign ownership or leasing of California agricultural land by year, over the past 10 years.

   c) Purpose for which foreign-owned or foreign-leased agricultural land is being used currently, including any significant recent changes or trends in the use of foreign-owned agricultural land.

   d) Extent of and recent changes in foreign ownership or leasing of water rights.

   e) Extent of and recent changes in foreign ownership or leasing of water desalination facilities.

   f) Extent of and any recent changes in foreign ownership or leasing of energy production, storage, or distribution facilities in California.

   g) CDFA's assessment of the impact of any recent changes in foreign ownership or leasing of agricultural land, water rights, or water desalination facilities on Californians' food security.

   h) Any legislative, regulatory, or administrative policy changes CDFA recommends in light of the information in the report.

8) Instructs CDFA to publish the inaugural report on its website by March 31, 2023, and on March 31 of each following year.

9) Directs CDFA to deliver copies of those recommendations to the Governor and the Assembly and Senate Committees on Agriculture if the report contains legislative or policy recommendations.

10) Contains an urgency clause.

Comments

The issue this bill is intended to address

According to the author:

> Foreign ownership of US agricultural land has steadily grown in prevalence over recent years. As our state continues its work towards more equitable food

> access, the need to address foreign ownership of agricultural land grows. Foreign owners of US agricultural land have less incentive to prioritize the needs of our own farmers, and at times this can hurt those who often rely most on the resources the land provides. The resulting consequences can lead to economic damage as money is taken away from local areas in favor of overseas investors and owners.

As evidence to back the concerns expressed above, the author points to a California Research Bureau (CRB) report requested by the author. The report finds that:

> Foreign-held land in California represents 2.7 percent of the state's total privately held agricultural land. This is close to the national average of 2.9 percent. The percentage of California agricultural land that is foreign held has increased steadily, yet is small compared with other states. Maine is the highest percentage of foreign-held agricultural land (19.5 percent), followed by Hawaii (9.2 percent) and Washington (7.1 percent).[1]

The extent of this steady increase in foreign ownership of agricultural land in California should not be overstated. The CRB report includes a table showing that the proportion of California agricultural land that is foreign-owned increased by less than one-third of a single percentage point *over the past decade*. That represents only a small fraction of the total agricultural land in California. Still, the trend is toward slightly greater foreign ownership over California's agricultural land. This bill is intended to stop that trend before it reaches a point where it could potentially undermine the state's food security, as well as to establish a mechanism for documenting the extent of existing foreign government ownership of California agricultural lands.

Constitutional considerations about state restrictions on foreign land ownership

Though it probably stands on solid constitutional footing, it should be noted that this bill brushes up against three constitutional doctrines: the foreign affairs doctrine, the dormant foreign commerce clause, and statutory preemption. (NOTE: The Senate Judiciary Committee analysis of this bill has details at Comment 3.)

Cautionary lesson from California's past

Both the U.S. and the California constitutions demand equal protection under the law. (U.S. Const., art. XIV, Sec. 1.; Cal. Const., art. 1, Sec. 7(a).) The California

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[1] *Memorandum from California Research Bureau to Ibarra Re: Request for Information: Foreign Farmland Ownership in California* (Mar. 30, 2022). On file with the Senate Judiciary Committee.

Constitution is also definitive in its rule that, in California, "[n]oncitizens have the same property rights as citizens." (Cal. Const., art. 1, Sec. 20.)

To be crystal clear, this bill does not directly discriminate against anyone on the basis of race or national origin, nor does it deny noncitizens any property rights that are available to citizens. Its prohibitions on the future acquisition of agricultural land and its registration requirements are directed at foreign *governments* and their affiliated state-controlled enterprises only.

Nonetheless, California's shameful history in relation to restrictions on foreign ownership of agricultural land should serve as a cautionary lesson as this bill makes its way through the Legislature. The Alien Land Law Act, approved by wide margins in this Legislature in 1913, prohibited "aliens ineligible for citizenship" from owning agricultural land or possessing long-term leases over it. (SB 5, Haney and Webb, Chapter 113, Statutes of 1913.) In practice, the law was a thinly disguised tool for preventing Californians of Japanese origin from buying farmland, something that an increasing number of Japanese-Californians had been doing at the time in order to support their families and community.[2] Supporters of the Alien Land Act justified its racist and xenophobic effects, among other ways, on the proposition that non-citizens lacked affinity for the nation in the same way that citizens do and therefore could not be trusted to safeguard the food supply.[3]

Keeping this history in mind may help to ensure that this bill continues to focus on potentially legitimate concerns about the influence of foreign *government* investment in California's agricultural systems, and avoids slipping into xenophobic tropes that presume foreign nationals are deserving of suspicion merely because they are foreign.

Annual report element

As it happens, the federal government already gathers information about trends in foreign government's ownership of agricultural land and, by statute, is supposed to report California-specific data to California. The author has designed this bill to take advantage of the information-gathering conducted by this federal program. The bill directs CDFA to conduct yearly assessments of this data and issue a corresponding annual report. Key details that the report would contain include: the total amount of foreign-owned agricultural land, trends in foreign agricultural land ownership in California over time, and information regarding the uses to which

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[2] Keith Aoki, No Right to Own?: The Early Twentieth-Century "Alien Land Laws" as a Prelude to Internment,19 B.C. Third World L.J. 37 (1998) at p. 45.
[3] *Id.* at p. 47. *See also*, *Sei Fujii v. State of California* (1952) 38 Cal.2d 718, 735-736.

that land is being put. Because the underpinnings for food security are not limited to property ownership, the report would also assess the extent and impact of foreign ownership over water rights, desalination plants, and energy facilities, as well.

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

According to the Assembly Appropriations Committee: Costs (General Fund) of a total of $815,000 in fiscal year (FY) 2022-23: $624,000 for three additional program analysts and $191,000 for a special assistant position) and $780,000 annually thereafter to CDFA to tabulate the appropriate data on foreign government ownership and leases of agriculture land, water rights, desalination facilities and energy production facilities in California, assess the impact of this foreign ownership and produce the annual report, coordinate with relevant state agencies, boards, the United States Department of Agriculture, and other stakeholders in an effort to collect the required information, and determine any recommended legislative, regulatory, or administrative policy changes.

SUPPORT: (Verified 8/22/22)

California Association of Realtors

OPPOSITION: (Verified 8/23/22)

Cahuilla Band of Indians
California Department of Food and Agriculture

ARGUMENTS IN SUPPORT: According to the author, "SB 1084 is a crucial first step towards addressing this ever-growing issue. SB 1084 aligns state law with the US Agricultural Foreign Investment Disclosure Act, ensuring our state agencies can operate with the same information that federal agencies receive. California has just over 40 million acres of privately held agricultural land, with 2.7 percent of that land being held by foreign owners. Granting our state agencies more insight into this allows us to prioritize the stewardship of these lands while continuing to direct resources and spending towards local economies."

According to the California Association of Realtors, "Despite the small percentage of land currently owned by foreign governments in California, the bill is valuable because of the knowledge it will provide to lawmakers regarding our scarce resources."

ARGUMENTS IN OPPOSITION: According to the California Department of Food and Agriculture, "CDFA's concerns stem from the information SB 1084 requires the department to collect. The referenced USDA report does not provide the level of specificity of information as mandated by SB 1084, and the USDA classification of a "foreign entity" is much broader than the definition provided in SB 1084. Foreign government ownership of agricultural resources is likely not tracked by any other state agency or board. Accordingly, my staff have no feasible way of collecting required information from existing sources and would be required to seek out the data in unknown other ways, resulting in an arduous, costly, and incredibly laborous undertaking. Moreover, the reporting requirements for water rights, water desalination facilities, and energy production facilities are beyond CDFA's purview and mission. At this time, CDFA does not see a need for the extraordinary additional reporting requirements […]."

ASSEMBLY FLOOR: 75-0, 8/22/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Boerner Horvath, Davies, Levine, McKinnor

Prepared by: Timothy Griffiths / JUD. / (916) 651-4113
8/23/22 9:51:48

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

SENATE RULES COMMITTEE SB 1085
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UNFINISHED BUSINESS

Bill No: SB 1085
Author: Kamlager (D)
Amended: 6/9/22
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-1, 5/3/22
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wiener
NOES: Borgeas
NO VOTE RECORDED: Wieckowski

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

ASSEMBLY FLOOR: 56-11, 8/25/22 - See last page for vote

SUBJECT: Juveniles: dependency: jurisdiction of the juvenile court

SOURCE: A New Way of Life Reentry Project

DIGEST: This bill prohibits a child from being found to be suffering, or at substantial risk of suffering, serious physical harm or illness for purposes of placing the child under the jurisdiction of the juvenile court on due solely to the family's homelessness, indigence, or other conditions of financial difficulty, as specified; and clarifies that it is the intent of the Legislature that families should not be subjected to juvenile court jurisdiction or separated from their families due to conditions of financial difficulty alone.

Assembly Amendments narrow the bill's list of financial conditions that cannot lead to juvenile court jurisdiction and add the statement of the intent of the Legislature that families should not be subject to juvenile court jurisdiction or separated simply because of conditions of financial difficulty.

ANALYSIS:

Existing law:

1) Establishes the juvenile court, which is intended to provide for the protection and safety of the public and minors falling under its jurisdiction. (Welf. & Inst. Code, §§ 202, 245.)

2) Provides that a child may become a dependent of the juvenile court and be removed from their parent or guardian on the basis of enumerated forms of abuse or neglect. (Welf. Inst. Code, § 300(a)-(j).)

3) Provides, as one such set of circumstances, that a child becomes a dependent of the juvenile court when the child has suffered, or there is a substantial risk that the child will suffer serious physical harm or illness as a result of:

    a) The failure or inability of the child's parent or guardian to adequately supervise or protect the child;

    b) The willful or negligent failure of the child's parent or guardian to adequately supervise or protect the child from the conduct of the custodian with whom the child has been left;

    c) The willful or negligent failure of the parent or guardian to provide the child with adequate food, clothing, shelter, or medical treatment; or

    d) The inability of the parent or guardian to provide regular care for the child due to the parent's or guardian's mental illness, developmental disability, or substance abuse. (Welf. & Inst. Code, § 300(b)(1) & (2).)

4) Provides, notwithstanding the factors in 3), that a child does not become a dependent of the juvenile court solely due to:

    a) The lack of emergency shelter for the family.

    b) The failure of the child's parent or alleged parent to seek court orders for custody of the child. (Welf. & Inst. Code, § 300(b)(1).)

This bill:

1) Adds an exception to when a child comes becomes a dependent of the juvenile court based on the circumstances in 3), providing that a child shall found to be a person who has suffered, or for whom there is a substantial risk that they will suffer, serious physical harm or illness solely as a result of the following:

   a) Homelessness.

   b) Indigence or other conditions of financial difficulty, including, but not limited to, poverty, the inability to provide or obtain clothing, home or property repair, or childcare.

2) States that the following is the intent of the Legislature:

   a) Families should not be subject to the jurisdiction of the juvenile court nor should children be separated from their parents based on conditions of financial difficulty, including, but not limited to, a lack of food, clothing, shelter or childcare.

   b) Reasonable services to prevent juvenile court intervention or children being separated from their parents include services to alleviate a potential risk to a child based on conditions of financial difficulty, including, but not limited to, referrals to community-based organizations.

   c) Consistent with existing law, no family should be subject to the jurisdiction of the juvenile court nor should children be separated from their parents based on conditions of financial difficulty unless there is willful or negligent action or failure to act and a nexus to harm such that the child has suffered or there is a substantial risk the child will suffer serious physical harm or illness.

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

SUPPORT: (Verified 8/26/22)

A New Way of Life Reentry Project (source)
Dependency Legal Services of San Diego
East Bay Family Defenders
Fresno Barrios Unidos
Legal Services for Prisoners with Children
Los Angeles Dependency Lawyers, Inc.
National Association of Social Workers, California Chapter

Pacific Juvenile Defender Center
Root & Rebound

OPPOSITION: (Verified 8/26/22)

None received

ARGUMENTS IN SUPPORT: According to the National Association of Social Workers, California Chapter, writing in support:

> Currently, the definition of neglect is overly broad. It provides a social worker free reign to initiate the removal of a child from their parents for relatively minor circumstances relating to poverty. The definition in the WIC code should be refined so that conditions such as a partially empty refrigerator, damaged furniture, or temporary inability to afford childcare while working a low wage job will not alone result in the removal of a child from their parents. Poverty and a historical lack of access to resources, especially for racial minorities, should not be further adjudicated by our Court, separating families for unreasonable and arbitrary reasons.
>
> SB 1085 amends WIC Section 300 to address the overly broad definition of neglect and provide a more comprehensive outline. The statutes in place that created WIC Section 300, therefore outlining the definition of neglect, were chaptered in 1976. Since then there have been minor legislative changes to the language, however none have addressed the overarching definition of neglect. This bill will address this longstanding issue by both protecting vulnerable communities and allowing social workers to make more informed reporting of neglect.
>
> More specifically, SB 1085 will effectively specify an exception for parents impacted by poverty. This will raise the standards statewide for considerations of "neglect" by social workers that initiate petitions separating children from their parents. We should stop punishing parents for being poor and do everything we can to assist the families that find themselves subjected to the system. Especially those that are vulnerable to implicit bias and arbitrary standards of "neglect," particularly racial minorities disproportionately impacted by this issue.

ASSEMBLY FLOOR: 56-11, 8/25/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia,

Gipson, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NOES: Megan Dahle, Davies, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Seyarto, Smith, Voepel

NO VOTE RECORDED: Bigelow, Chen, Choi, Cooper, Cunningham, Flora, Gray, Irwin, Mayes, Patterson, Salas, Valladares, Waldron

Prepared by: Allison Meredith / JUD. / (916) 651-4113
8/26/22 15:48:04

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

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UNFINISHED BUSINESS

Bill No: SB 1090
Author: Hurtado (D), et al.
Amended: 8/15/22
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 4-0, 3/29/22
AYES: Pan, Jones, Cortese, Kamlager
NO VOTE RECORDED: Hurtado

SENATE JUDICIARY COMMITTEE: 10-0, 4/5/22
AYES: Umberg, Borgeas, Caballero, Durazo, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Gonzalez

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/19/22
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SENATE FLOOR: 39-0, 5/25/22
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Hertzberg

ASSEMBLY FLOOR: 77-0, 8/22/22 - See last page for vote

SUBJECT: Family Urgent Response System

SOURCE: Children Now
County Welfare Directors Association of California

DIGEST: This bill expands the definition of "current or former foster youth" for purposes of accessing the Family Urgent Response System (FURS) to include

youth who have exited foster care for any reason, including, but not limited to, emancipation, a child or youth who is the subject of a voluntary placement agreement, a child or youth who is placed in foster care and is the subject of a petition filed pursuant to reports of abuse and neglect, and a child or youth placed in California pursuant to the Interstate Compact on the Placement of Children.

Assembly Amendments restructure and clarify the provisions of this bill in terms of their application to a child or youth who have exited foster care for any reason.

ANALYSIS:

Existing law:

1) Establishes a state and local system of child welfare services, including foster care, for children who have been adjudged by the court to be at risk of abuse and neglect or to have been abused or neglected, as specified. (WIC 202)

2) Provides that a child who has suffered, or is at substantial risk of suffering, abuse or neglect, as provided, by the child's parent or guardian is within the jurisdiction of the juvenile court, which may adjudge the child a dependent child. (WIC 300)

3) States that the purpose of foster care law is to provide maximum safety and protection for children who are currently being physically, sexually, emotionally abused, neglected, or exploited, and to ensure the safety, protection, and physical and emotional well-being of children who are at risk of harm. *(WIC 300.2)*

4) Defines "FURS" as meaning a coordinated statewide, regional, and county-level system designed to provide collaborative and timely state-level phone based response and county-level in-home, in-person mobile response during situations of instability, for purposes of preserving the relationship of the caregiver and the child or youth, as provided. (WIC 16526(d))

5) Defines "caregiver," for the purposes of FURS, as meaning a person responsible for meeting the daily care needs of a current or former foster child or youth, and who is entrusted to provide a loving and supportive environment for the child or youth to promote their healing from trauma. (WIC 16526(a))

6) Defines "current or former foster child or youth," for the purposes of FURS, as including a child or youth adjudicated a dependent or ward of the juvenile court and who is served by a county child welfare agency or probation

department, and a child or youth who has exited foster care to reunification, guardianship, or adoption, until they attain 21 years of age. (WIC 16526(b))

7) Defines "mobile response," for the purpose of FURS, as meaning the provision of in-person, flexible, responsive, and supportive services where the caregiver and child or youth are located to provide them with support and prevent the need for a 911 call or law enforcement contact. (WIC 16526(g))

8) Creates a 24-hour, seven days a week, statewide hotline, established by California Department of Social Services (CDSS), as the entry point for FURS to respond to calls from both caregivers and current or former foster children during moments of instability. (WIC 16527(a))

9) Provides, through the statewide hotline, both hotline workers who are trained in techniques for de-escalation and a conflict resolution telephone response specifically for children and referrals to a county-based mobile response system, for further support and in-person response. (WIC 16527(a)(1)-(2))

10) Requires FURS referrals to provide a warm handoff whereby a hotline worker establishes direct and live connection through a three-way call that includes the caregiver, child or youth, and county contact, while allowing the caregiver or child or youth to decline the three-way contact if they feel their situation has been resolved at the time of the call. If direct communication cannot be established, a referral directly to the community or county based services and a follow up call to ensure that a connection occurs, is required. (WIC 16527(a)(2))

11) Requires the statewide hotline to maintain contact information for all county-based mobile response systems, based on information provided by counties, for referrals to local services, as provided. (WIC 16527(b))

12) Requires CDSS to collect de-identified, aggregated data regarding individuals served through the hotline and county-based mobile response systems. Further requires CDSS to publish annually on their internet website, beginning January 1, 2022, FURS data, including the number of children or youth and caregivers served, among other things, as provided. (WIC 16527(c))

13) Requires CDSS, in consultation with stakeholders, to: develop methods and materials for informing all caregivers and current or former foster children or youth about the hotline; establish protocols for triage and response; establish

minimum education and training requirements for hotline workers; and, consider expanding the hotline to include communication through electronic means. (WIC 16527(e))

14) Requires the statewide hotline to be operational no sooner than January 1, 2021, and on the same date as the county mobile response system, as provided. (WIC 16527(f))

15) Requires county child welfare, probation, and behavior health agencies, in each county or region of counties, to establish a joint county-based mobile response system that includes a mobile response and stabilization team for the purpose of providing supportive services, as provided. (WIC 16529)

This bill adds youth who have exited foster care for any reason, including, but not limited to, emancipation, a child or youth who is the subject of a voluntary placement agreement, a child or youth who is placed in foster care and is the subject of a petition filed pursuant to reports of abuse and neglect, and a child or youth placed in California pursuant to the Interstate Compact on the Placement of Children to the meaning of "current or former foster child or youth" for the purposes of FURS.

Background

Child Welfare Services (CWS). The CWS system is an essential component of the state's safety net. Social workers in each county who receive reports of abuse or neglect, investigate and resolve those reports. When a case is substantiated, a family is either provided with services to ensure a child's well-being and avoid court involvement, or a child is removed from the family and placed into foster care. In 2021, the state's child welfare agencies received 400,313 reports of abuse or neglect. Of these, 61,438 reports contained allegations that were substantiated and 22,004 children were removed from their homes and placed into foster care via the CWS system. As of October 1, 2021, there were 58,072 children in California's CWS system.

Foster Care and Youth's Mental Health. Foster care can be uniquely traumatic for a child, over and above the trauma of losing one's parent(s). Most children in care for two years or more experience multiple placements, more than half of children in foster care experience caregiver violence or caregiver incarceration, and almost two-thirds have lived with someone with an alcohol or drug problem. Additionally, the use of long-term congregate group care for foster care has also been found to

be inherently detrimental to the healthy development of children, and may cause additional psychological harm to already-traumatized children.[1]

Despite these, and other, common sources of trauma for foster children, California has not consistently provided adequate mental health care for foster children. In 2002, current foster children and children at risk of being put into foster care in California filed a class action suit against CDSS and the California Department of Health Care Services (DHCS) for failing to provide medically necessary mental health care in adequate settings (the *Katie A.* suit).[2] CDSS and DHCS settled the suit, and the settlement included CDSS and DHCS agreeing to significantly overhaul access to mental health care services for children in foster care or at risk of being placed in foster care.[3] The *Katie A.* settlement included, among other things, the use of Child and Family Teams that would provide individualized care coordination and access to specific mental health services to foster children and youth.[4]

Around this same time, the Legislature enacted SB 1013 (Committee on Budget and Fiscal Review, Chapter 35, Statutes of 2012), which called for CDSS to establish a working group to develop recommended revisions to the current rate system, services, and programs serving children and families in the continuum of foster care settings. CDSS's resulting report, "California's Child Welfare Continuum of Care Reform," published in 2015, outlined a comprehensive approach to improving California's child welfare system by reforming the system of placements and services directed at youth in foster care.[5] Many of the recommended reforms, referred to as CCR, were then implemented in legislation, including eliminating the group home licensure category and replacing them with new Short Term Residential Therapeutic Programs.[6] In 2018, the Legislature enacted AB 2083 (Cooley, Chapter 815, Statutes of 2018), which required each county to develop and implement a trauma-informed "system of care" memorandum of understanding that would set forth the roles and responsibilities of agencies and other entities that serve children and youth in foster care who have experienced severe trauma, including, at a minimum, the establishment and operation of an interagency leadership team and an interagency placement

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[1] *E.g.*, Dozier, et al., *Consensus Statement on Group Care for Children and Adolescents: A Statement of Policy of the American Orthopsychiatric Association*, American Journal of Orthopsychiatry, 2014, Vol. 84, No. 3, pp. 219-225.
[2] *See* Katie A., ex rel. Ludin v. Los Angeles County (9th Cir. 2007) 481 F.3d 1150, 1152.
[3] *See* DHCS Court Documentation, *Katie A. Settlement Agreement Implementation*, **https://www.dhcs.ca.gov/services/MH/Pages/Court_Documentation.aspx** (last visited Mar. 17, 2022).
[4] *Ibid.*
[5] California Health and Human Services Agency & CDSS, *California's Child Welfare Continuum of Care Reform* (Jan. 2015).
[6] *See* AB 1997 (Stone, Ch. 612, Stats. 2016); AB 403 (Stone, Ch. 773, Stats. 2015).

committee to help facilitate placements and appropriate services for foster youth and children.

The Family Urgent Response System. In 2019, the Legislature enacted FURS through SB 80 (Committee on Budget and Fiscal Review, Chapter 27, Statutes of 2019). Initially, this concept was introduced through AB 2043 (Arambula, 2018), which was vetoed by the Governor for presenting significant, ongoing general fund commitments. The passage of FURS required CDSS and the counties to establish a coordinated statewide, regional, and county-level response system for current and former foster children, youth, and non-minor dependents (NMDs) and their caregivers. The response system was designed to provide collaborative and timely state-level, 24/7 hotline-based response and county-level in-home, in-person mobile response during situations of crisis or instability for foster youth and their caregivers, with the ultimate goal of preserving the relationship between the caregiver and the child or youth.

FURS was designed to provide children or youth currently or formerly in foster care and their caregivers with immediate trauma informed support when issues, big and small, arise through the 24/7 statewide hotline. By calling into the hotline, youth or their caregivers are provided with immediate access to caring counselors trained in conflict resolution and de-escalation techniques. These counselors can help youth or their caregivers process the conflict in real time, often resolving the issue without need for further intervention. This provides caregivers and youth with a trauma-informed alternative to calling 911 or law enforcement, which was often previously their only option. If further intervention is needed, the hotline can connect the youth or caregiver to the County Mobile Response and Stabilization Teams. These teams are intended to provide in-home de-escalation, stabilization, conflict resolution and support services from a trauma informed lens. Both the hotline and the mobile response teams also provide the opportunity for youth and caregivers to be further connected with and referred to the existing array of local services for the provision of ongoing supports, if needed.

Ideally, these interventions prevent the need for placement changes or more restrictive interventions, such as the involvement of law enforcement, hospitalizations, or congregate care placement referrals. This provides the opportunity for youth to heal from trauma and maintain supportive, consistent, and loving relationships rather than face additional placement disruptions and potential for further traumatization. The statewide hotline has been available for youth and caregivers since March 1, 2021. As of July 1, 2021, mobile response teams were fully implemented across all counties.

As FURS has been implemented, eligibility questions have arisen. Stakeholders have shared that youth being denied usage of FURS due to questions over whether they qualify as a current or former foster youth. This bill seeks to correct this by further clarifying that youth under a voluntary program of supervision or voluntary placements agreements, youth who are subject to a filed dependency petition but not yet adjudicated dependents, and youth who have exited care for any reason are all eligible, along with their caregivers, to utilize FURS to help them resolve any conflict they might be facing.

Comments

According to the author, "California's foster children and youth are oftentimes the most vulnerable individuals in our communities. The Family Urgent Response System (FURS) provides current and former foster children and youth and their caregivers with the immediate trauma-informed support they need during times of instability through its 24/7 statewide hotline and county mobile response systems. Children and youth need to be supported during all moments of instability to reduce negative behavioral modifications and help them adjust to their situations."

The author goes on to state, "SB 1090 updates and expands the definition of foster youth to include a child or youth in the early or later stages of the system who are left out of the current definition. This is a clean-up bill that will strengthen current law and its goal."

Related/Prior Legislation

AB 1005 (Arambula, 2019) would have established a FURS hotline and county-based response system. AB 2043 died in the Assembly Human Services Committee.

AB 2043 (Arambula, 2018) would have established a FURS hotline and county-based response system. The bill was vetoed, as it was considered as part of the budget process.

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

According to the Assembly Appropriations Committee, CDSS estimates ongoing General Fund costs of approximately $130,000 annually, to manage additional calls to the statewide hotline.

Additional costs to counties, of an unknown amount for increased tasks and administrative time required for a presumed increase in volume of mobile

responses provided by a county's FURS Mobile Response Team. Many counties operate their local FURS mobile response teams using staff from existing child welfare, behavioral health, and probation departments. These counties are likely to see a greater immediate cost than those counties that contract their FURS Mobile Response to a community-based program.

Although these county costs are state-mandated costs, they are not reimbursable, but instead must be funded by the state pursuant to Proposition 30. Proposition 30 (2012) requires legislation enacted after September 30, 2012, that has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by realignment (including child welfare services and foster care) to apply only to local agencies to the extent the state provides annual funding for the cost increase.

SUPPORT: (Verified 8/22/22)

Children Now (co-source)
County Welfare Directors Association (co-source)
Alameda County Board of Supervisors
Alliance for Children's Rights
Alliance of Child and Family Services
Aspiranet
California Alliance of Caregivers
California State Association of Counties
Children's Law Center of California
County Behavioral Health Directors Association
County of Sacramento
County of Ventura
John Burton Advocates for Youth
Mariposa County Health & Human Services Agency
National Association of Social Workers, California Chapter
North Los Angeles County Regional Center
Public Counsel

OPPOSITION: (Verified 8/22/22)

None received

ASSEMBLY FLOOR: 77-0, 8/22/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Flora, Mike

Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Bigelow, Davies, Levine

Prepared by: Marisa Shea / HUMAN S. / (916) 651-1524
8/22/22 20:25:39

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

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UNFINISHED BUSINESS

Bill No: SB 1093
Author: Hurtado (D)
Amended: 8/15/22
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 4-0, 3/29/22
AYES: Pan, Jones, Cortese, Kamlager
NO VOTE RECORDED: Hurtado

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 39-0, 4/21/22 (Consent)
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NO VOTE RECORDED: Wilk

ASSEMBLY FLOOR: 69-0, 8/22/22 - See last page for vote

SUBJECT: Community care facilities: criminal background checks

SOURCE: Author

DIGEST: This bill removes the requirement that a request to transfer a current criminal record clearance from one licensed community care facility to another be made in writing to the Department of Social Services (CDSS). This bill instead requires the applicant or licensee to submit a request for such a transfer via a form provided by CDSS or submission via CDSS's secure online portal.

Assembly Amendments make technical and conforming changes and include chaptering out language to incorporate changes to Section 1522, Section 1568.09, Section 1569.17, Section 1596.871, and Section 1796.24 of the Health and Safety Code proposed by AB 1720 (Holden) to resolve conflicts.

ANALYSIS:

Existing law:

1) Establishes the California Community Care Facilities Act, which provides regulatory structure for coordinated and comprehensive statewide system of care for individuals with mental illnesses, individuals with disabilities, and children and adults who require care or services provided by licensed community care facilities. *(HSC 1500 et seq.)*

2) Requires an individual to obtain either a criminal record clearance or a criminal record exemption from CDSS before their initial presence in a community care facility or certified family home, as specified. *(HSC 1522 et seq.)*

3) Requires an individual to obtain either a criminal record clearance or a criminal record exemption from CDSS before their initial presence in residential care facilities for persons with chronic life-threatening illness, as specified. *(HSC 1568.09 et seq.)*

4) Requires an individual to obtain either a criminal record clearance or a criminal record exemption from CDSS before their initial presence in a Residential Care Facility for the Elderly (RCFE), as specified. *(HSC 1569.17 et seq.)*

5) Requires an individual to obtain either a criminal record clearance or a criminal record exemption from CDSS before their initial presence in a child day care facility, as specified. *(HSC 1596.871 et seq.)*

6) Permits CDSS to allow an individual to transfer a current criminal record clearance from one licensed facility to another if the clearance has been processed through and is being transferred to another facility licensed by a state licensing district office. Further requires the request to be submitted to CDSS in writing, include a copy of the person's driver's license, or other form of valid identification, and requires CDSS to verify whether the individual has a clearance that can be transferred. *(HSC 1522(h)(1), 1568.09(g)(1), 1569.17(g)(1)) and 1596.871(h)(1))*

This bill:

1) Removes the requirement that a request to transfer a current criminal record clearance from one licensed facility to another be made in writing to CDSS, include a copy of the person's driver's license or valid identification card, and include a self-addressed envelope for this purpose.

2) Requires a request to transfer a current criminal record clearance from one licensed facility to another be submitted to CDSS on a form provided by CDSS or submitted via CDSS's secure online portal.

3) Requires the licensee to verify the individual's identity.

Comments

According to the author, "care facilities, which faced understaffing prior to the pandemic, and remain woefully understaffed, face a complex process that needs to be modernized and streamlined in order to keep their staff working and able to provide much needed care. SB 1093 modernizes and simplifies the California Department of Social Services (CDSS) process for transferring background clearance for employees who provide child care, home care, and older adult care, by allowing for the use of an online portal."

Community Care Licensing Division (CCLD). CDSS's Community Care Licensing Division (CCLD) licenses and oversees community care facilities—including child care facilities, foster family homes, and care facilities for the elderly—throughout California. These facilities typically provide non-medical care and supervision for children and adults. As of June 2021, there are 67,622 licensed community care facilities in the state with total capacity to serve approximately 1.4 million Californians. All facilities licensed by CDSS must meet minimum licensing standards, as specified in California's Health and Safety Code and Title 22 regulations. CDSS conducts pre- and post-licensing inspections for new facilities and unannounced visits to licensed facilities under a statutorily required timeframe.

Criminal Background Checks. To protect the vulnerable populations served by CCLD-licensed facilities, state law requires all applicants, licensees, adult residents, volunteers under certain conditions, and employees of licensed facilities who have contact with clients to be subject to a background check. These background checks are conducted by the Department of Justice (DOJ) and used to determine whether individuals should be allowed to be present in a licensed facility.

If an individual has no history of arrests and convictions, a clearance notice is sent to CDSS. If an individual has a criminal history, a separate process will result in either a denial or exemption. DOJ sends a transcript to CDSS showing the arrests and convictions of the individual. If the crimes are eligible for exemption under current law, CDSS will send an exemption notification letter to the applicant or licensee and to the individual. Individuals awaiting an exemption may not be

present in a facility until an exemption is granted. If the criminal history shows arrests for crimes that may not be exempted, CDSS will deny the individual.

The law provides for the transfer of a criminal record clearance between state-licensed facilities as long as the criminal record clearance has been processed through a state licensing regional office, and is being transferred to another facility licensed by the regional office. These transfer requests must be submitted to CDSS in writing before the individual with the clearance may be in contact with any clients at the new facility.

This bill seeks to streamline the process for transferring criminal background clearances from one facility to another by removing the requirement that an applicant or licensee make such a transfer request in writing to CDSS, along with a copy of the individual's photo identification and a self-addressed envelope. Instead, this bill requires the applicant or licensee to verify the individual's identity and submit a request to transfer the individual's criminal background clearance by completing and retuning via the postal service a form provided by CDSS or by submitting the request via CDSS's secure online portal. Upon receiving the request, CDSS would then verify whether the individual has a clearance that can be transferred.

Related/Prior Legislation

AB 447 (Patterson, 2019) would have created a process by which licensees of certain facilities licensed by CCLD could transfer current criminal record clearances of individuals associated with a facility to multiple facilities of the same type operated by the same licensee. This bill was held in the Senate Appropriations Committee.

AB 1437 (Patterson, 2018) would have created a process by which licensees of certain facilities licensed by CCLD could transfer current criminal record clearances of individuals associated with a facility to multiple facilities of the same type operated by the same licensee. This bill was vetoed by the Governor.

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

According to the Assembly Appropriations Committee this bill would have negligible costs to CDSS.

SUPPORT: (Verified 8/22/22)

California Advocates for Nursing Home Reform
California Assisted Living Association
California Disability Services Association
Leading Age California

OPPOSITION: (Verified 8/22/22)

None received

ASSEMBLY FLOOR: 69-0, 8/22/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Mike Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Low, Maienschein, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Chen, Davies, Flora, Fong, Kiley, Levine, Mathis, Seyarto, Smith, Voepel

Prepared by: Elizabeth Schmitt / HUMAN S. / (916) 651-1524
8/22/22 19:59:28

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

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UNFINISHED BUSINESS

Bill No: SB 1112
Author: Becker (D)
Amended: 8/18/22
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 10-1, 4/26/22
AYES: Hueso, Becker, Dodd, Eggman, Gonzalez, Hertzberg, McGuire, Min, Rubio, Stern
NOES: Dahle
NO VOTE RECORDED: Borgeas, Bradford, Grove

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/19/22
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NOES: Bates, Jones

SENATE FLOOR: 28-8, 5/24/22
AYES: Allen, Atkins, Becker, Bradford, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NOES: Bates, Dahle, Grove, Jones, Melendez, Nielsen, Ochoa Bogh, Wilk
NO VOTE RECORDED: Archuleta, Borgeas, Caballero, Hertzberg

ASSEMBLY FLOOR: 69-0, 8/23/22 - See last page for vote

SUBJECT: Energy: building decarbonization: notice and recordation of a decarbonization charge

SOURCE: Author

DIGEST: This bill establishes requirements for notifications that utilities must provide when adding a decarbonization charge as part of a program financing energy efficiency upgrades to an existing property.

Assembly Amendments clarify terms, extend deadlines for decarbonization charge notifications, and declare that recording a notice of decarbonization charge pursuant to the bill does not constitute a debt collection.

ANALYSIS:

Existing law:

1) Creates a charge on electricity and natural gas consumption to fund cost-effective energy efficiency and conservation activities. (Public Utilities Code §381 and §890)

2) Requires the California Public Utilities Code (CPUC) to identify all potentially achievable, cost-effective electricity and natural gas efficiency savings and establish energy efficiency targets and ratepayer-funded programs for investor-owned utilities (IOUs). Gas corporations must first meet its unmet resource needs through all available natural gas efficiency and demand reduction resources that are cost effective, reliable, and feasible. (Public Utilities Code §454.55 and §454.56.)

3) Requires the CPUC to authorize an IOU to provide incentives for the cost of energy efficiency programs based on all estimated energy savings, including energy savings from bringing existing buildings into compliance with mandatory energy efficiency codes for existing buildings issued by the California Energy Commission (CEC), and authorizes an IOU to recover the costs in rates. (Public Utilities Code §381.2)

4) Establishes the Building Initiative for Low-Emissions Development (BUILD) program by requiring the CPUC to provide incentives to eligible applicants for the deployment of near-zero-emission building technologies to significantly reduce the emissions of greenhouse gases (GHG) from those buildings below the minimum projected emissions that would be achieved through building codes. Existing law authorizes the CEC to serve as the BUILD program's third-party administrator. (Public Utilities Code §921)

5) Establishes the Technology and Equipment for Clean Heating (TECH) program by requiring the CPUC to direct gas corporations to provide incentives for the installation of low-emission space and water heating equipment in new and existing buildings. Existing law authorizes the CEC to serve as the TECH program's third-party administrator. (Public Utilities Code §922)

6) Requires the CEC to publish by January 1, 2017, a study on low-income Californians' barriers to energy efficiency and weatherization investments and make recommendations on how to address these barriers. (Public Resources Code §25327)

7) Requires the CEC to assess and report by January 1, 2021, on California's potential to reduce GHG emissions in the state's residential and commercial building stock by at least 40 percent below 1990 levels by January 1, 2030. Existing law requires this report to include specified assessments, including an assessment of potential ratepayer impacts and challenges associated with reducing GHG emissions from certain housing sectors. (Public Resources Code §25403)

This bill:

1) Defines an energy supplier as an entity that conducts retail electric sales in California, including, but not limited to, an electrical corporation, local publicly owned electric utility (POU), electric service provider, and community choice aggregator (CCA). An electrical cooperative is also considered an energy supplier for the purposes of this bill.

2) Defines a "decarbonization upgrade" as a change to a subscriber property that does any of the following:

   a) Reduces electric demand.
   b) Stores energy.
   c) Reduces the use of fossil fuels.
   d) Converts water, wind, or sunlight to usable electricity.

3) Defines a decarbonization charge as a charge added by an energy supplier to a bill for electrical service to pay for a decarbonization upgrade to the subscriber's property.

4) Requires the CPUC, a POU governing board, or an electrical cooperative governing board to ensure that energy suppliers comply with the following regarding decarbonization upgrades financed by the energy supplier through decarbonization charges:

   a) Sets a 30-day deadline for an energy supplier to provide a notice to the applicable county recorder for the property after a decarbonization upgrade

has been installed at the property. The county recorder must include a specified record of the notice under the name of the property owner. This bill deems the record of the decarbonization charge as a sufficient notice to subsequent subscribers at that address of an obligation to pay the decarbonization charge.

b) Requires an energy supplier to provide specified notices within 30 days of recovering outstanding costs for a decarbonization upgrade or when ceasing to collect a decarbonization charge.
c) Specifies that an agreement for a decarbonization upgrade must include a requirement that the owner of the property must disclose the decarbonization charge in lease and rental agreements. This requirement applies only to decarbonization upgrade agreements executed after January 1, 2023.

5) Requires the CEC to identify funding opportunities available for building decarbonization, apply for available federal funds, and submit a report to the Legislature on statutory changes needed for California to better compete for federal decarbonization funding by December 31, 2023.

Background

Bill highlights low-income communities' barriers to energy efficiency upgrades. Existing law established by SB 350 (De León, Chapter 547, Statutes of 2015) required the CEC to develop targets to double energy efficiency savings from electric and natural gas end uses and requires the CEC to conduct a study of low-income communities' barriers to energy efficiency investments. The SB 350 barriers report identified split incentives as a significant barrier to incentivizing energy efficiency and distributed energy resource (DER) upgrades in rental units. These split incentives occur in circumstances where the property owner doesn't experience ratepayer benefits associated with financing an upgrade, and the renter can't authorize upgrades or obtain the financial incentives from upgrade programs. In a subsequent staff report, the *Clean Energy in Low-Income Multifamily Buildings Action Plan*, the CEC notes that residents in multifamily buildings also face split incentive barriers to installing DERs. These upgrades can require large upfront costs for building-wide upgrades, and multifamily properties can have more complex ownership systems that pose challenges to linking investments to rates from customers' meters. According to the report, 33 percent of California households meet federal low-income criteria, and 47 percent of low-income Californians live in multifamily housing.

Bill reflects ongoing discussions at the CPUC about decarbonization financing. In 2019, the CPUC opened a proceeding (R. 19-01-011) to implement SB 1477 (Stern, Chapter 378, Statutes of 2018), which required the CPUC to establish and allocate funding for the BUILD and TECH programs to deploy low and zero-emission building decarbonization technologies. In addition to establishing rules for the BUILD and TECH programs, the CPUC also used this proceeding to explore additional policies for building decarbonization. During the CPUC's building decarbonization proceeding, the CPUC noted that barriers to financing energy efficiency upgrades remained. To address these concerns, the CPUC opened a new proceeding (R. 20-08-022). The initial scoping memo for this proceeding notes how the CPUC's existing building decarbonization proceeding highlighted the need to address concerns about affordable financing options:

> In the course of the proceeding, financing options have been discussed as a potential mechanism to encourage more building decarbonization. On the scale that will be necessary to meet the SB 350 and SB 100 goals, as well as the many other state environmental goals, mechanisms beyond incentives will almost certainly be necessary and there is a strong nexus between our building decarbonization work and the financing mechanisms we intend to explore in this proceeding.

In November 2021, the CPUC issued a new ruling identifying multiple forms of energy efficiency financing options the CPUC will consider, including tariffed on-bill financing and on-bill repayment. The CPUC directed utilities to provide proposals and feedback regarding these potential financing options as part of the ruling, and utilities are still developing these responses.

Decarbonization charges are a form of on-bill financing for efficiency upgrades. This bill defines a decarbonization charge as a charge assessed by an energy supplier on a bill for electrical service to pay for a decarbonization upgrade to the subscriber's property. Under this bill, tariffed on-bill (TOB) repayment would meet the definition of a decarbonization charge. TOB financing allows renters and property owners to fund energy efficiency improvements without out-of-pocket expenses or relying on incurring personal debt. A utility serves as the conduit for providing up-front funding for upgrades and generally collects repayment through a fixed charge associated with the property address. Repayment is generally collected through the customer's utility bill. TOB repayment can be an attractive option for lower income consumers to finance upgrades because the process can enable consumers with limited credit history to obtain upgrades without qualifying for a loan or providing significant up-front cash. However, on-bill financing

repayment obligations generally stay with an address, and no process currently exists to ensure that renters and homebuyers are aware of these obligations before buying or renting a property.

Bill does not require decarbonization charges; it establishes a framework for notifying consumers these charges. This bill requires the CPUC and utility governing boards to ensure that energy suppliers record decarbonization charges with local governments. This bill also requires the CPUC and these governing boards to ensure that decarbonization charge agreements to stipulate that rental and lease agreements must also include a notice about an existing decarbonization charge. While this bill specifies requirements for decarbonization charge notices, this bill does not require decarbonization charges or establish further enforcement requirements regarding decarbonization charges. The CPUC in the process of considering decarbonization charges as a form of energy efficiency upgrade financing. To the extent that this bill reduces ambiguity about the notification process for consumers that would pay decarbonization upgrades associated with a property, this bill could facilitate the implementation of these charges as a financing option.

Related/Prior Legislation

SB 31 (Cortese, 2020) would have required the CEC to fund the development and deployment of building decarbonization technology through the Electric Program Investment Charge (EPIC) program. The bill was held in the Senate Appropriations Committee.

SB 1477 (Stern, Chapter 378, Statutes of 2018) required the CPUC to establish and allocate funding for the BUILD and TECH programs to deploy low and zero-emission building decarbonization technologies.

AB 3232 (Friedman, Chapter, Statutes of 2018) required the CEC to develop a plan to ensure that all new residential and nonresidential buildings are zero-emission buildings. The bill also required the CEC to develop a strategy to reduce GHG emissions from existing buildings 40 percent below 1990 levels by 2030.

SB 350 (De León, Chapter 547, Statutes of 2015) increased California's Renewable Portfolio Standard procurement goals and required the CEC to develop targets to double energy efficiency savings from electric and natural gas end uses. The bill also required the CEC to study low-income communities' barriers to energy efficiency investments.

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

According to the Assembly Appropriations Committee:

- At the time this analysis was prepared, the CEC had not provided the committee an estimate of its costs to implement the bill. Nonetheless, the duties this bill requires of CEC, are likely to be in the low hundreds of thousands of dollars (Energy Resources Programs Account, or other special fund).

- Both GO-Biz and the California Infrastructure and Economic Development Bank (IBank) recognize implementation of the bill may entail costs for them; however, the agencies describe the bill's requirements as too poorly defined to assign a dollar value to those costs.

SUPPORT: (Verified 8/23/22)

Fiona Ma, California State Treasurer
350 Bay Area Action
350 Sacramento
A. O. Smith Corporation
Acterra
Building Decarbonization Coalition
Carbon Free Mountain View
Carbon Free Palo Alto
Carbon Free Silicon Valley
East Bay Community Energy
Foundation for Climate Restoration
Menlo Spark
San Fernando Valley Chapter of Climate Reality Project
Silicon Valley Clean Energy
Silicon Valley Youth Climate Action
Sonoma Clean Power
Sustainable Silicon Valley
The Greenlining Institute

OPPOSITION: (Verified 8/23/22)

None received

ARGUMENTS IN SUPPORT: According to the author, "SB 1112 establishes transparency for renters and home buyers by requiring that a utility or community choice aggregator (CCA) who engages in TOB financing must notify their county recorder of a decarbonization upgrade made in a home and the charges the occupant of the home will incur as a result of the upgrade. Similarly, it requires that property owners notify potential tenants of decarbonization charges associated with upgrades to the building that they will be responsible for.

"By ensuring reasonable notification to subsequent customers, SB 1112 removes this potential barrier to TOB programs and should enable utilities to offer climate-beneficial and cost-saving TOB upgrades to their customers with confidence that they can recoup these investments over time."

ASSEMBLY FLOOR: 69-0, 8/23/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Daly, Flora, Mike Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Megan Dahle, Davies, Fong, Gray, Kiley, Lackey, Nguyen, Seyarto, Smith, Valladares

Prepared by: Sarah Smith / E., U. & C. / (916) 651-4107
8/23/22 15:17:26

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

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UNFINISHED BUSINESS

Bill No: SB 1122
Author: Allen (D)
Amended: 8/15/22
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 8-0, 3/22/22
AYES: Stern, Jones, Allen, Eggman, Hertzberg, Hueso, Laird, Limón
NO VOTE RECORDED: Grove

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/19/22
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

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

ASSEMBLY FLOOR: 76-0, 8/23/22 - See last page for vote

SUBJECT: San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy: territory

SOURCE: San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy

DIGEST: This bill expands the territory of the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (RMC) to include the Dominguez Channel watershed and Santa Catalina Island; requires RMC to update its parkway and open space plan to account for this new territory; and makes other minor, technical, and conforming changes.

Assembly Amendments remove the addition of the coastal watersheds of Manhattan Beach to the Palos Verdes Peninsula from the proposed expansion of the RMC's territory and make other conforming changes.

ANALYSIS:

Existing law:

1) Establishes RMC in the California Natural Resources Agency (CNRA) to provide for the preservation and protection of lands in the San Gabriel River and Lower Los Angeles River watersheds, and the San Gabriel Mountains.

2) Requires RMC to prepare a San Gabriel and Lower Los Angeles Parkway and Open Space Plan, which includes policies and priorities for the conservation of the San Gabriel River and its watershed, the Lower Los Angeles River, and the San Gabriel Mountains, and identifies underused existing public open spaces and recommendations for providing better public use and enjoyment.

3) Establishes the RMC's governing board, consisting of 15 voting members and nine ex officio members, as specified.

This bill:

1) Expands RMC's territory to include the Dominguez Channel watershed and Santa Catalina Island.

2) Directs RMC to update the San Gabriel and Lower Los Angeles Parkway and Open Space Plan to include the priorities for conservation and enhanced public use within the Dominguez Channel watershed and Santa Catalina Island.

3) Makes other minor, technical, and conforming changes.

Background

RMC's mission is, among other things, to preserve open space and habitat in order to provide for low-impact recreation and educational uses, wildlife habitat restoration and protection, and watershed improvements within its jurisdiction. RMC's territory includes the watersheds of the San Gabriel River and the Lower Los Angeles River, along with portions of the Santa Clara River and the lower Santa Ana River. RMC's jurisdiction covers approximately 1,490 square miles (mi^2) and is located mostly in eastern Los Angeles County, with portions of the San Gabriel River watershed located in western Orange County.

Comments

This bill should look familiar. AB 78 (O'Donnell, 2021) and AB 1694 (O'Donnell, 2019) were substantially similar bills to this one. Both Assembly bills were held on the suspense file in the Senate Appropriations Committee.

The additions. RMC's territory is approximately 1,490 mi^2. This bill adds 208 mi^2 to its jurisdiction, including 133 mi^2 of the Dominguez Channel watershed and 75 mi^2 of Santa Catalina Island. This includes adding the cities and communities of Avalon, Carson, Gardena, Hawthorn, Hermosa Beach, Lawndale, Palos Verdes Estates, San Pedro, Willowbrook, and Wilmington. It also would include adding portions of the cities and communities of El Segundo, Los Angeles, Inglewood, Redondo Beach, Rolling Hills, Rolling Hills Estates, and Torrance.

Dominguez Channel watershed. Located within the south bay region of Los Angeles County, approximately 81 percent of the watershed or 93 percent of the land is developed. Residential development covers nearly 40 percent of the watershed, and another 41 percent is made up by industrial, commercial and transportation uses. With a population of nearly one million, considerable demands are made on infrastructure and services within the watershed. RMC could provide additional resources to help mitigate and manage impacts to this watershed.

Santa Catalina Island. Located 29 miles south-southwest of Long Beach, the island is approximately 75 mi^2. The vast majority of the island is open undeveloped territory. The City of Avalon and the unincorporated village of Two Harbors serve as the main population centers. These two areas, along with the smaller settlements of Rancho Escondido and Middle Ranch, account for the majority of the island's residents and development.

The Wrigley family bought the island from the Banning family over 100 years ago. Around 50 years ago, the Wrigley family set up the Catalina Island Conservancy (CIC), a private nonprofit conservancy to protect the island from development with a focus on conservation, restoration, and recreation. CIC owns and manages approximately 88 percent of island. The Wrigley family still owns and maintains around 10 percent, the City of Avalon covers another one percent, approximately, and the remainder is owned by others, including the University of Southern California. Southern California Edison runs all gas, power, and water on the island, with various access easements, 20 water wells, and no oil or gas wells on the island.

A key question is why should the Legislature expand the territory of RMC to include Santa Catalina Island, which is protected by an existing conservancy, albeit

a private one? CIC argues that, as a small, private conservancy located off the mainland, it has struggled to secure funding from agencies in Sacramento and contends it might have more success partnering with RMC on critical projects on the island. Notably, the island has the longest publicly accessible stretch of undeveloped coastline left in Southern California.

Board representation. Although not every attempt is successful, it is not unusual for the territory of a conservancy to expand after its inception. For example, SB 419 (Kehoe, Chapter 646, Statutes of 2007) expanded the San Diego River Conservancy, and AB 1089 (E. Garcia, Chapter 228, Statutes of 2015) added the cities of Coachella and Indio to the Coachella Valley Mountains Conservancy. Both examples, however, also changed the structure of the respective governing boards. Last year, SB 208 (Dahle, Chapter 182, Statutes of 2021) expanded the Sierra Nevada Conservancy's territory and included a requirement to prepare recommendations to the Legislature to change the structure of the board. This bill makes no changes to RMC's governing board, which was last revised in 2015 by SB 355 (Lara, Chapter 677) to add new members.

Overlap with BHC. The expansions proposed in this bill overlap with expansions proposed by SB 1052 (Kamlager) for the Baldwin Hills Conservancy (BHC) in the Dominguez Watershed. Also, there is some overlap with the expansion proposed in SB 1052 with RMC's existing territory. This includes about 17 mi^2 of the Dominguez Channel watershed.

Conservancies typically do not overlap jurisdiction. It could be problematic to have two conservancies with overlapping jurisdictions. This could lead to confusion and projects that are at cross-purposes, especially because both conservancies have specified first-right of refusal for surplus lands suitable for park space.

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

According to the Assembly Appropriations Committee:

- Unknown, likely significant cost pressure (General Fund, special fund, or bond funds) to fund activities and projects in the expanded RMC territory.

- RMC estimates it will cost no more than $20,000 to include the coastal watersheds of Manhattan Beach to the Palos Verdes Peninsula in its ongoing update to its Open Space Plan. The update to the plan is in its final stages and already includes the Dominguez Channel watershed and Santa Catalina Island. RMC notes this cost is absorbable within current funding sources available for support and operations.

SUPPORT: (Verified 8/23/22)

City of Avalon
City of Los Angeles
South Bay Cities Council of Governments
Watershed Conservation Authority

OPPOSITION: (Verified 8/23/22)

None received

ARGUMENTS IN SUPPORT: According to the author, "California's land conservancies serve a vital role in safeguarding and restoring the Golden State's unique natural environments. Established in 1999, the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (RMC) protects wildlife habitats in Los Angeles and Orange counties while providing recreational and educational opportunities to surrounding communities. Nearly 5 million Californians live within the current boundaries of RMC and benefit from the Conservancy's ongoing efforts to protect and restore the natural areas within its jurisdiction.

"SB 1122 will enhance conservation and public recreation in more communities by expanding the RMC territory to include the Dominguez Channel Watershed, Santa Catalina Island, and coastal area watersheds of Los Angeles County's South Bay. This expansion will allow RMC to support projects and provide grants for conservation and climate adaption efforts for generations to come."

ASSEMBLY FLOOR: 76-0, 8/23/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Davies, Gallagher, Gray

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8/23/22 14:43:39

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

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UNFINISHED BUSINESS

Bill No: SB 1131
Author: Newman (D)
Amended: 8/15/22
Vote: 27 - Urgency

SENATE ELECTIONS & C.A. COMMITTEE: 4-0, 3/28/22
AYES: Glazer, Hertzberg, Leyva, Newman
NO VOTE RECORDED: Nielsen

SENATE JUDICIARY COMMITTEE: 9-2, 4/26/22
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, Stern, Wieckowski, Wiener
NOES: Borgeas, Jones

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/19/22
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NOES: Bates, Jones

SENATE JUDICIARY COMMITTEE: 9-0, 8/24/22 (Pursuant to Senate Rule 29.10)
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas, Jones

SENATE FLOOR: 30-8, 5/25/22
AYES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NOES: Bates, Borgeas, Dahle, Grove, Jones, Melendez, Nielsen, Wilk
NO VOTE RECORDED: Hertzberg, Ochoa Bogh

ASSEMBLY FLOOR: 62-0, 8/22/22 - See last page for vote

SUBJECT: Address confidentiality: public entity employees and contractors

SOURCE: Brennan Center for Justice at New York University School of Law
California Voter Foundation

DIGEST: This bill establishes an address confidentiality (or "Safe at Home") program for public entity employees and contractors, as provided. The bill prohibits the names of precinct board members from being listed when posting information, as specified, and requires county elections officials to make certain information appearing on the affidavit of registration confidential upon request of a qualified worker. The bill also includes harassment as a basis for application in the existing Safe at Home program for reproductive health care service providers and allows additionally documentation to be submitted in the application. The bill declares that it is to take effect immediately as an urgency statute.

Assembly Amendments expand the bill's provisions to include public entity employees and contractors who faces threats of violence or violence or harassment from the public because of their work for a public entity as eligible for the Safe at Home program, as provided.

ANALYSIS:

Existing law:

1) Establishes an address confidentiality (or "Safe at Home") program within the Office of the Secretary of State (SOS) in order to enable state and local agencies to both accept and respond to requests for public records without disclosing the changed name or address of a victim of domestic violence, sexual assault, or stalking. Existing law permits any such adult victim, or parent or guardian acting on behalf of a minor or incapacitated person, to apply through a community-based victims' assistance program to have an address designated by the SOS as their substitute mailing address. (Gov. Code § 6205 et seq.)

2) Allows reproductive health care providers, employees, volunteers, and patients to apply to the address confidentiality program through a community-based victims' assistance program, as specified. (Gov. Code § 6215 et seq.) The application is required to contain certain things, including a certified statement signed by a person authorized by the reproductive health care services facility stating that the facility or any of its providers, employees, volunteers, or patients is or was the target of threats or acts of violence or harassment within one year of the date of the application. (Gov. Code § 6215.2(a)(1)(B).)

3) Permits an individual to seek confidential voter status and have their residence address, telephone number, and email address declared confidential upon presentation of certification that the person is a participant in the Safe at Home program, as specified. (Elec. Code § 2166.5.)

4) Requires a county elections official, upon application of a public safety officer and if authorized by the county board of supervisors, to make confidential an officer's residence address, telephone number, and email address appearing on the affidavit of registration, as specified. (Elec. Code § 2166.7.)

5) Requires an election official to post a list of all polling places and precinct board members at specified times before an election. Requires these lists be posted at the elections official's office and on their official website. Requires an election official to include the political party affiliation for each listed precinct board member. (Elec. Code § 12105.5.)

6) Authorizes a court to issue a workplace violence restraining order, requested by an employer, to protect an employee from suffering unlawful violence or credible threats of violence at the workplace, after a noticed hearing. (Code of Civil Procedure (CCP) Section 527.8.)

7) Authorizes a court to issue a civil restraining order to prevent abuse, threats of abuse, stalking, sexual assault, or serious harassment by someone who is not an intimate partner, or a close family member of the protected party after a noticed hearing. (CCP Section 527.6.)

This bill:

1) Expands the Safe at Home program to public entity employees and contractors by permitting an adult person, who is domiciled in California, to have an address designated by the SOS to serve as the person's address, as specified and if certain conditions are met. Provides, among other requirements, that the basis for the application to the Safe at Home program is that the applicant is a public entity employee or contractor who faces threats of violence or violence or harassment from the public because of their work for the public entity and is fearful for their safety or the safety of their family because of their work for the public entity.
   a) Defines "harassment" as repeated, unreasonable, and unwelcome conduct directed at a targeted individual that would cause a reasonable person to fear for their own safety or for the safety of an immediate family member,

domestic partner, or a household member. Harassing conduct may include, but is not limited to, following, stalking, phone calls, or written correspondence.

b) Defines "public entity" as a federal, state, or local government agency.
c) Defines "work for a public entity" as work performed by an employee of a public entity, or work performed for a public entity by a person pursuant to a contract with the public entity.

2) Authorizes a public entity employee or contractor to submit, in addition to a certified statement signed by a person affiliated with the applicant's place of work or employment, a certified statement signed by the applicant stating that they have been the target of threats, harassment, or acts of violence within one year of the date of the application because of their occupation or specified restraining orders issued after a noticed hearing.

3) Permits an individual in the public entity employees and contractors Safe at Home program to seek confidential voter status and have their residence address, telephone number, and email address declared confidential upon presentation of certification that the person is a participant in the Safe at Home program, as specified.

4) Includes harassment of a facility or any of its providers, employees, volunteers, or patients, as a basis for a person's application in the Safe at Home program for a reproductive health care service provider, employee, or volunteer or their families because of their affiliation with a reproductive health care services facility, as provided. Includes a certified statement signed by the applicant stating that they have been the target of threats, harassment, or acts of violence within one year of the date of the application because of their occupation or specified restraining orders issued after a noticed hearing as additional documentation that can be submitted to qualify for the Safe at Home program.

5) Requires a county elections official, upon application of a qualified worker, to make confidential that qualified worker's residence address, telephone number, and email address appearing on the affidavit of registration, as provided.
   a) Defines "qualified worker" as a person who is employed by or contracts with the SOS or a local election office who performs election-related work and interacts with the public or is observed by the public doing election-related work, but does not include a person who is a precinct board member who does not otherwise perform election-related work, and a qualified

worker is not limited to those who exclusively perform direct election-related work for the SOS or local election offices.

b) Requires the SOS to submit to the Legislature no later than January 10 of each year a report that includes the total number of applications received for the program established, which includes the number of program participants within each county and describe any allegations of misuse relating to election purposes.

6) Prohibits the names of precinct board members from being listed when posting information about precinct board members, as specified.

7) Declares that it is to take effect immediately as an urgency statute in order to ensure the safety of Californians who work for public entities due to the risk of violence, threats, and harassment from the public.

Comments

With the passage of SB 489 (Alpert, Chapter 1005, Statutes of 1998), the California State Legislature established the Safe at Home program within the Office of the SOS to allow victims of domestic violence to apply for a substitute address to be used in public records in order to prevent their assailants, or potential assailants, from finding their work or home address. Through subsequent legislation, the program has been expanded to include victims of sexual assault, stalking, and reproductive health care service providers, employees, volunteers, and patients. (*See* SB 1318 (Alpert, Chapter 562, Statutes of 2000) and AB 797 (Shelley, Chapter 380, Statutes of 2002).)

Upon successful application, a program participant is certified to remain in the program for four years, subject to early termination or withdrawal, and must re-certify pursuant to the SOS's renewal process if the participant wishes to continue in the program beyond the four-year enrollment period. For victims not yet of the age of majority or incapacitated persons, a parent or guardian may apply to enroll the victim into the program. Program participants may seek confidential voter status and have their residence address, telephone number, and email address declared confidential upon presentation of certification to the county elections official that the person is a participant in the Safe at Home program.

According to the author and the sponsors, over the past two years those charged with administering California's elections have been increasingly subjected to threats, harassment, and intimidation. Election workers face the risk of "doxing"

and harassment as the result of their names, photographs, and addresses being posted online and on social media platforms, as has happened to numerous election officials already around the country. Since November 2020, more than 15 percent of California's election officials have left their jobs. They additionally note that journalists at Reuters have documented violent threats and harassment against election officials across the country, even identifying nine of the harassers whom have not been held accountable.

Other individuals working for public entities have been facing increased harassment as well, especially since the beginning of the COVID-19 pandemic. A survey found that nearly 12 percent of America's public health workforce has been threatened due to their job. The New York Times identified more than 500 top health officials who left their jobs in the past 19 months, in part because of abuse and threats. In the wake of these increased threats, the U.S. Justice Department created separate initiatives to address these increasing threats against election administrators and education workers. School board members and school administrators have also faced increased threats, harassment, and sometimes even violence. In October of 2021, U.S. Attorney General Garland directed the Federal Bureau of Investigation and U.S. Attorneys' Offices to meet with federal, state, tribal, territorial and local law enforcement leaders and discuss strategies for addressing a disturbing trend of threats and abuse toward public school officials.

This bill expands the Safe at Home program to include public entity employees and contractors who faces threats of violence or violence or harassment from the public because of their work for a public entity. The bill defines "public entity" as a federal, state, or local government agency and "work for a public entity" as work performed by an employee of a public entity, or work performed for a public entity by a person pursuant to a contract with the public entity.

All program participants would be subject to the existing enrollment process, orientation, counseling, termination process, and disenrollment process required under the Safe at Home program, except the bill allows an applicant to submit, in addition to a certified statement signed by a person affiliated with the applicant's place of work or employment (1) a certified statement signed by the applicant stating that they have been the target of threats, harassment, or acts of violence within one year of the date of the application because of their occupation or (2) a workplace violence restraining order described in Section 527.8 of the Code of Civil Procedure or a civil restraining order described in Section 527.6 of the Code of Civil Procedure after notice of a hearing.

Existing law authorizes a person who is a participant in a Safe at Home program for victims of domestic violence, sexual assault, stalking, or reproductive health care providers, employees, volunteers, and patients to be granted confidential voter status by the county elections official upon presentation of certification that the person is a participant in a Safe at Home program. (Elec. Code § 2166.5.) This bill grants this same right to participants in the public employee and contractor Safe at Home program.

The bill additionally provides that the basis for seeking participation in the Safe at Home program for reproductive health care providers, employees, volunteers, or patients can include harassment.

Existing law requires a county elections official, upon application of a public safety officer and if authorized by the county board of supervisors, to make confidential an officer's residential address, telephone number, and email address appearing on the affidavit of voter registration. (Elec. Code § 2166.7.) The application is required to contain certain things, including a statement, signed under penalty of perjury, that the person is a public safety officer and that a life-threatening circumstance exists to the officer or a member of the officer's family. (*Id*. at (b).) The confidentiality under this provision terminates no more than two years after commencement, as determined by a county elections official, and an applicant can reapply for confidential voter status. (*Id*. at (c).) This bill enacts substantially similar provisions for a qualified worker, except that the county election official is required to make the information confidential regardless if authorized by the county board of supervisors.

Existing law requires election officials to post a list of all current polling places in each precinct and a list of precinct board members appointed by the 15th day before the election and not less than one week before an election. (Elec. Code § 12105.5(a).) This bill, in order to protect the names of precinct board members instead requires a list of political party affiliation of precinct board members to be posted and specifically prohibits the names of precinct board members from being included on the list.

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

According to the Assembly Appropriations Committee:

- Costs (General Fund GF)) of approximately $700,000 in fiscal year 2022-23 and approximately $662,000 annually thereafter in additional staff and resources, including P.O. boxes, multiple language translations, and postage.

Costs also include database modifications to accommodate a new participant classification. The SOS reports this bill will add approximately 600 new participants in the SAH program. Additional, unknown costs to process fees for participation in the SAH program. Costs may be offset by the SAH application fees. Existing law requires annual fees assesses for SAH program applications must be used to offset SAH program costs and to reimburse the GF for any amounts expended form the GF for the SAH program.

- Possible reimbursable costs (GF) of an unknown, but potentially significant amount to county elections officials to remove the names of precinct board member in the lists of identified polling places.

SUPPORT: (Verified 8/23/22)

Brennan Center for Justice at New York University School of Law (co-source)
California Voter Foundation (co-source)
350 South Bay LA
American Association of University Women California
Association of California School Administrators
California Association of Clerks and Election Officials
California Association of Code Enforcement Officers
California Association of Joint Powers Authorities
California Environmental Voters
California School Boards Association
California State Association of Counties
California Voter Foundation
City Clerks Association of California
City of Foster City
City of Vista
Clean Coalition
Cloverdale Indivisible
County Health Executives Association of California
Indivisible Alta Pasadena
Indivisible CA GreenTeam
Indivisible Marin
Indivisible Media City Burbank
Indivisible Mendocino
Indivisible Riverside
Indivisible Ross Valley
Indivisible Resistance San Diego
Indivisible San Jose

Indivisible Sacramento
Indivisible Stand Strong LA
Indivisible Stanislaus
Indivisible Sonoma County
Indivisible South Bay LA
League of California Cities
League of Women Voters of California
Livermore Indivisible
Long Beach Alliance for Clean Energy
Orange County Employees Association
Progressive Democrats of the Santa Monica Mountains
RepresentUs
SoCal 350
The Resistance Indivisible Northridge
Urban Counties of California
Valley Women's Club of San Lorenzo Valley

OPPOSITION: (Verified 8/23/22)

None received

ARGUMENTS IN SUPPORT: The author writes, "In recent years, an ever-increasing number of diligent and dedicated public servants have been subjected to threats, intimidation, and sometimes physical violence -- at polling places, in their offices, and even at the grocery store. In some instances, the threats follow them to their home. SB 1131 reduces the likelihood that public servants may be subject to doxing and targeting, by allowing California's public servants to enroll in the "Safe at Home" Program, administered by the Secretary of State, which provides protection to survivors of domestic violence and people who work at reproductive care facilities. This bill also includes an alternative option that allows election workers to withhold their private information from public records requests for those that don't wish to enroll in "Safe at Home", thereby expanding the personal protection and privacy they deserve. This legislation is vital in order to protect Californians."

The Brennan Center for Justice at New York University School of Law, one of the sponsors of the bill, writes, "SB 1131 would ensure that election workers can take advantage of either the Safe at Home program or address confidentiality programs in California. The Safe at Home program provides both address confidentiality and mail forwarding, while the address confidentiality program masks a participant's address in the voter registration file. SB 1131 would also remove the requirement

that those administering elections publicly post the names of pollworkers in advance of elections, while leaving in place the requirement to post pollworker party affiliations. This can boost public trust in elections without undermining pollworker security. […]"

ASSEMBLY FLOOR: 62-0, 8/22/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Low, Maienschein, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Chen, Choi, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Levine, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel

Prepared by: Amanda Mattson / JUD. / (916) 651-4113
8/24/22 19:23:31

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

Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SB 1139
Author: Kamlager (D)
Amended: 8/15/22
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 3/29/22
AYES: Bradford, Kamlager, Skinner, Wiener
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-0, 5/19/22
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NO VOTE RECORDED: Bates, Jones

SENATE FLOOR: 28-2, 5/24/22
AYES: Allen, Atkins, Becker, Bradford, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NOES: Melendez, Wilk
NO VOTE RECORDED: Archuleta, Bates, Borgeas, Caballero, Dahle, Grove, Hertzberg, Jones, Nielsen, Ochoa Bogh

ASSEMBLY FLOOR: 56-0, 8/23/22 - See last page for vote

SUBJECT: Prisons: visitation

SOURCE: Prison From the Inside Out

DIGEST: This bill requires the Department of Corrections and Rehabilitation (CDCR) to make emergency phone calls available to an incarcerated person and specified people outside of CDCR when the incarcerated person has been hospitalized for a serious medical reason or when the incarcerated person's family member has become critically ill or died; update certain visitor and medical documents annually or within 30 calendar days of an infectious disease outbreak;

notify specified people within 24 hours of an incarcerated person being hospitalized; and make emergency in-person visits and video calls available whenever an incarcerated person is hospitalized, as specified.

Assembly Amendments remove the requirement that an incarcerated person be allowed to update specified documents within 30 days of an infectious disease outbreak; limit the definition of serious or critical medical condition to mean the incarcerated person needs medical treatment for a terminal illness, needs to receive life-sustaining treatment, or has been admitted to a public or community hospital; limit emergency in-person contact visits or video calls to circumstances in which the incarcerated person has been hospitalized; and eliminate the prohibition on visitor approval when the incarcerated person in in imminent danger of dying and instead require that video visitation be offered without clearance if in-person visitation is unable to take place.

ANALYSIS:

Existing law:

1) Provides that the Secretary of CDCR may prescribe and amend rules and regulations for the administration of the prisons. (Pen. Code, § 5058.)

2) Requires any amendments to existing regulations and any future regulations adopted by CDCR which may impact the visitation of inmates do all of the following: recognize and consider the value of visiting as a means to improve the safety of prisons for both staff and inmates; recognize and consider the important role of inmate visitation in establishing and maintaining a meaningful connection with family and community; and recognize and consider the important role of inmate visitation in preparing an inmate for successful release and rehabilitation. (Pen. Code, § 6400.)

3) Requires CDCR to obtain from an incarcerated person, upon entry and annually, the name and last known address and phone number of any person or persons to be notified in the event of the person's death or serious illness or serious injury, as determined by the physician in attendance. Requires the persons be notified in the order of the incarcerated person's preference. Requires the incarcerated person be provided with the opportunity to modify or amend his or her notification list at any time. (Pen. Code, § 5022, subd. (a).)

4) Requires CDCR to use all reasonable means to contact the person or persons set forth in the notification list upon the death or serious illness or serious

injury, as determined by the physician in attendance, of the incarcerated person. (Pen. Code, § 5022, subd. (b).)

5) Allows any adult patient of a health care provider and any patient's personal representative to inspect patient records upon presenting to the health care provider a request for those records and upon payment of reasonable costs. (Health & Saf. Code, § 123110, subd. (a).)

This bill:

1) Prohibits the Secretary of CDCR from charging a fee for an incarcerated person to request, review, or use their medical records.

2) Requires that emergency phone calls are made available to persons outside of CDCR and to incarcerated people, as specified. Requires CDCR to provide persons outside the facility the means to initiate a phone call to an incarcerated person in either of the following circumstances:

   a) When the incarcerated person has been admitted to the hospital for a serious medical reason.

   b) When a family member, approved visitor, next of kin, or persons listed on the medical release of information form or medial power of attorney form has become critically ill or has died while the incarcerated person has been hospitalized.

3) Requires that at intake and at least once a year thereafter, and within 30 calendar days of an infectious disease outbreak in a department facility, every incarcerated person be asked whom they want covered by the following documents:

   a) Approved visitor list. Requires CDCR, if the incarcerated person would like to add a visitor, to provide a visitor application form for the incarcerated person to sign and send to the potential visitor, who may then complete and submit it to the visiting department of the facility.

   b) Medical release of information form.

   c) Medical power of attorney form.

   d) Next of Kin form authorizing control over body and possessions in case of death.

4) Requires that incarcerated individuals be assisted in completing the above paperwork.

5) Requires CDCR, within 24 hours of an incarcerated person being hospitalized for a serious medical reason, to inform persons covered by the current medical release of information form about the incarcerated person's health status and to facilitate phone calls between the incarcerated person and those persons if the incarcerated person consents.

6) Provides that a serious medical reason includes any of the following:

   a) A medical professional has determined that the incarcerated person needs medical treatment in a public or community hospital.

   b) A medical professional has determined that the incarcerated person needs medical treatment for a terminal disease.

   c) A medical professional has determined that the incarcerated person needs to receive life-sustaining medical treatment.

   d) The incarcerated person has suffered from a medical emergency and is receiving treatment at a prison hospital.

   e) The incarcerated person has died.

7) Requires within 24 hours of an incarcerated person being hospitalized and if the incarcerated person is able to provide knowing and voluntary consent, CDCR to ask the incarcerated person whether they want to add people to any of the above specified forms who have not previously been designated. Requires CDCR to promptly assist, as necessary, the incarcerated person in completing the paperwork. Requires CDCR to promptly inform the newly designated persons on the medical release form of the incarcerated person's condition and facilitate a phone call between the incarcerated person and the newly designated person.

8) Requires CDCR to maintain a phone line for outside people to call to inform the department that a family member or a person designated in any of the above listed forms has become critically ill or has died while the incarcerated person has been hospitalized. Requires CDCR to notify the incarcerated person of these calls upon their receipt.

9) Requires emergency in-person contact visits and video calls to be made available whenever an incarcerated person is hospitalized or moved to a

medical unit within the facility and the incarcerated person is in a critical or more serious medical condition. Requires video calls be made available if in-person contact visits are unavailable at the facility due to a public health emergency or are inconsistent with the patient's current medical treatment needs, as determined by their medical provider. Requires any visitor approval process to be conducted within 24 hours. No visitor approval process is required when the incarcerated person is in imminent danger of dying. Requires CDCR to allow up to four visitors at one time to visit the incarcerated person when the incarcerated person is in imminent danger of dying.

10) Provides that "hospital" includes an on-site facility set up to provide hospital-like services during a public health emergency.

11) Requires CDCR to have a grievance process in place by which the incarcerated person, or the person designated by the incarcerated person on the above specified forms, may file a formal grievance to review:

    a) CDCR's failure to provide the incarcerated person's health care information and records to the designated person;

    b) CDCR's failure to provide notice to the designated person as required;

    c) CDCR's decision to deny visitation as required; or

    d) CDCR's failure to provide adequate medical care and treatment.

12) Provides that CDCR's existing grievance process satisfies the requirements that CDCR have a grievance process as outlined above.

13) Provides that it is contingent upon the appropriation of funds by express reference in the annual Budget Act or another statute.

Background

Phone Calls

CDCR regulations generally require the state's prisons to provide phones for use by incarcerated individuals. (Cal. Code Regs, tit. 15, § 3282, subd. (b).) Incarcerated individuals may place collect phone calls to persons outside the facility at designated times and on designated phones, as set forth in local procedures. (*Id*.) Limitations may be placed on the frequency and length of such calls based on the person's privilege group and to ensure equal access. (*Id*.) Regulations further provide that if a staff member determines that an incoming call

concerns an emergency matter, the staff member is required to obtain the caller's name and phone number, to notify the incarcerated person promptly of the situation, and to permit the incarcerated person to place an emergency call. (Cal. Code Regs, tit. 15, § 3282, subd. (g).) "Emergency call" is defined as a phone call regarding the serious illness or injury, or the death of an incarcerated person's immediate family member. (Cal. Code Regs, tit. 15, § 3282, subd. (a).)

Visitation

CDCR regulations provide for the general policies and protocols related to visits. As required by state law, the department's regulations "are made in recognition and consideration of the value of inmate visitation as a means of increasing safety in prisons, maintaining family and community connections, and preparing inmates for successful release and rehabilitation." (Cal. Code Regs., tit. 15, § 3170, subd. (a).) The regulations additionally provide that "[i]t is the intent of these regulations to establish a visiting process in the institutions/facilities of the department that is conducted in as accommodating a manner as possible, subject to the need to maintain order, the safety of persons, the security of the institution/facility, and required prison activities and operations." (*Id*.) Before a person may be permitted to visit someone incarcerated in one of CDCR's institutions, the person must apply for approval using the department's questionnaire. (Cal. Code Regs., tit. 15, § 3172, subd. (b).) Regulations require that the visiting approval application process include an inquiry of personal, identifying, and the arrest history information of the prospective visitor sufficient to complete a criminal records clearance and a decision by the staff at the institution to approve or disapprove based upon the information provided. (Cal. Code Regs., tit. 15, § 3172, subd. (e).)

CDCR regulations provide the following non-exhaustive list of reasons for the disapproval of a prospective visitor:

- The prospective visitor has outstanding arrests or warrants, including a Department of Motor Vehicles Failure to Appear notice with no disposition from the court.

- The prospective visitor has one felony conviction within the last three years, two felony convictions within the last six years, or three or more felony convictions during the last 10 years.

- The prospective visitor has any one conviction of the following types of offenses: distributing a controlled substance into or out of a state prison, correctional facility, or jail; transporting contraband, including weapons, alcohol, escape and drug paraphernalia, and cell phones or other wireless

communication devices, in or out of a state prison, correctional facility, or jail; aiding or attempting to aid in an escape or attempted escape from a state prison, correctional facility, or jail; or the prospective visitor is a co-offender of the incarcerated individual.

- The prospective visitor is a former prison inmate who has not received the prior written approval of the institution head or designee.

- The prospective visitor is a supervised parolee, probationer, or on civil addict outpatient status and has not received written permission of his or her case supervisor and/or the prior approval of the institution head.

- The identity of the prospective visitor or any information on the visiting questionnaire, is omitted or falsified. (Cal. Code Regs., tit. 15, § 3172.1, subd. (b).)

Finally, the institution head is required to maintain visiting procedures for visiting at each institution or facility that are consistent with department regulations. (Cal. Code Regs., tit. 15, § 3171, subd. (a).)

In Custody Injuries and Deaths

Current law requires CDCR to obtain from an incarcerated person, upon entry and annually, the name and last known address and phone number of any person or persons to be notified in the event of the person's death or serious illness or serious injury, as determined by the physician in attendance. (Pen. Code, § 5022, subd. (a).) Existing law also requires the incarcerated person be provided with the opportunity to modify or amend his or her notification list at any time. (*Id*.) CDCR is required to use all reasonable means to contact the person or persons set forth in the notification list upon the death or serious illness or serious injury, as determined by the physician in attendance, of the incarcerated person. (Pen. Code, § 5022, subd. (b).)

Regulations require, upon the death of an incarcerated person, a CDCR staff member to review the person's central file and locate the current Notification in Case of Inmate Death, Serious Injury, or Serious Illness to identify the person's next of kin or person or persons to be notified. (Cal. Code Regs., tit. 15, § 3999.417, subd. (e).) This form must be completed annually or when the incarcerated person is transferred to a new prison. (*Id*.) Regulations require counseling staff to complete the Notification and to witness the incarcerated person's dated signature. (*Id*.) The Notification must include: the name of the incarcerated person, CDCR number, personal identification number, and current

institution; the name, relationship, telephone, and address of person to be notified; the name, relationship, telephone, and address of the contact person for a will; and whether the inmate is a foreign national. (*Id*.) Staff is required attempt to notify the person or persons listed on the Notification in Case of Inmate Death, Serious Injury, or Serious Illness as the person(s) to be notified of the death, in person, or, if personal contact is not practical, by phone. (Cal. Code Regs., tit. 15, § 3999.417, subd. (f).) Staff is required to send a notification to the next-of-kin, person or persons to be notified, and the legally appointed representative which must include the name and telephone number of a staff member who may be contacted for additional information, among other things.

Health Care Grievances

Regulations specify that the health care grievance process provides an administrative remedy to patients for review of complaints of applied health care policies, decisions, actions, conditions, or omissions that have a material adverse effect on their health or welfare. (Cal. Code Regs., tit. 15, § 3999.226, subd. (a).) Health care grievances are subject to an institutional level review and may receive a headquarters' level grievance appeal review, if requested by the grievant. (*Id*.)

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

According to the Assembly Appropriations Committee, costs (General Fund) in the tens of millions of dollars to CDCR annually in additional staff and infrastructure to provide emergency phone calls, update visitor and medical documents, notify identified parties within 24 hours of an inmate being hospitalized, and arrange for emergency in-person visits in specified circumstances. Specifically, California Correctional Health Care Services (CHSS) estimates additional personnel will be required to meet the expected requests from the incarcerated population. CDCR also reports costs of an unknown, but potentially significant amount associated with contacting individuals as a result of an incarcerated person needing medical treatment in a public or community hospital CDCR noted that it sends hundreds of incarcerated people to public or community hospitals for treatment every week, meaning this bill would results in significant additional staff workload to make the necessary notifications. CDCR also estimates costs of an unknown, but potentially significant amount for the purchase of equipment to facilitate video calls at community or public hospitals. Depending on existing hospital infrastructure, it may be necessary to add video calling equipment to individual hospital rooms. CDCR also notices this bill may require additional security to comply with the visitation requirements at hospitals, and additional staffing to implement the grievance process for alleged violations of the bill's provisions.

SUPPORT: (Verified 8/23/22)

Prison From the Inside Out (source)
California Attorneys for Criminal Justice
California Catholic Conference
California Public Defenders Association
Communities United for Restorative Youth Justice
Dee Hill Foundation
Ella Baker Center for Human Rights
Empowering Women Impacted by Incarceration
Essie Justice Group
Friends Committee on Legislation of California
Humane Prison Hospice Project
Initiate Justice
Jesse's Place
Legal Services for Prisoners with Children
Starting Over
Transformative In-Prison Workgroup

OPPOSITION: (Verified 8/23/22)

California Correctional Peace Officers Association
Riverside Sheriffs' Association

ASSEMBLY FLOOR: 56-0, 8/23/22
AYES: Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cunningham, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Low, Maienschein, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Reyes, Luz Rivas, Robert Rivas, Salas, Santiago, Stone, Ting, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Aguiar-Curry, Bigelow, Chen, Choi, Cooper, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Kiley, Lackey, Levine, Mathis, Nguyen, Patterson, Quirk-Silva, Ramos, Rodriguez, Blanca Rubio, Seyarto, Smith, Valladares

Prepared by: Stephanie Jordan / PUB. S. /
8/23/22 14:43:38

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

SENATE RULES COMMITTEE
Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SB 1141
Author: Limón (D)
Amended: 8/15/22
Vote: 21

SENATE EDUCATION COMMITTEE: 5-0, 3/30/22
AYES: Leyva, Ochoa Bogh, Cortese, Glazer, Pan
NO VOTE RECORDED: Dahle, McGuire

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/19/22
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NOES: Bates, Jones

SENATE FLOOR: 29-8, 5/24/22
AYES: Allen, Atkins, Becker, Bradford, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NOES: Bates, Borgeas, Dahle, Grove, Jones, Melendez, Nielsen, Wilk
NO VOTE RECORDED: Archuleta, Caballero, Hertzberg

ASSEMBLY FLOOR: 61-11, 8/24/22 - See last page for vote

SUBJECT: Public postsecondary education: exemption from payment of nonresident tuition

SOURCE: California Community Colleges Chancellor's Office

DIGEST: This bill expands eligibility for the exemption from paying nonresident tuition at a California public postsecondary institution established for long-term California residents, regardless of citizenship status, by removing the two-year cap on CCC credit courses that may count towards eligibility.

Assembly Amendments reinstate the three-year requirement for total attendance at a California school.

ANALYSIS:

Existing law:

1) Establishes a variety of residency requirements for students attending the California Community Colleges (CCC) or the California State University (CSU). The determination of such residency status is required in order to assess either resident or non-resident fees and tuition. The Regents of the University of California (UC) may, by resolution, make these provisions of law applicable to the UC (and historically have done so). (Education Code (EC) § 68000-68134)

2) Exempts, pursuant to AB 540 (Firebaugh, Chapter 814, Statutes of 2001), California nonresident students, regardless of citizenship status, from paying nonresident tuition at California public colleges and universities who meet all of the following requirements who have graduated from a California high school (or the equivalent) and either:

   a) Satisfaction of the requirements of either (i) or (ii):

      i) A total attendance of, or attainment of credits earned while in California equivalent to, three or more years of full-time attendance or attainment of credits at any of the following:

         (1) California high schools;

         (2) California high schools established by the State Board of Education;

         (3) California adult schools established by any of the following entities:

            (a) A county office of education.
            (b) A unified school district or high school district.
            (c) The Department of Corrections and Rehabilitation.

         (4) Campuses of the CCC.

         (5) A combination of those schools set forth in (1) to (4), inclusive.

      ii) Three or more years of full-time high school coursework in California, and a total of three or more years of attendance in California elementary schools, California secondary schools, or a combination of California elementary and secondary schools.

   b) Satisfaction of any of the following:

i) Graduation from a California high school or attainment of the equivalent.

ii) Attainment of an associate degree from a campus of the CCC.

iii) Fulfillment of the minimum transfer requirements established for UC or CSU for students transferring from a campus of the CCC. (EC § 68130.5.)

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

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

This bill expands eligibility for the exemption from paying nonresident tuition at a California public postsecondary institution established for long-term California residents, regardless of citizenship status. Specifically it, removes the two-year cap on CCC credit courses that can count towards the three-year minimum requirement for total attendance at a California school in order to qualify for the exemption.

Comments

1) *Need for the bill.* According to the author, "Students attending a CCC can only count two years of full-time attendance in credit courses towards the 3-year threshold necessary to qualify. As a result, students are forced to enroll in noncredit courses for one year even if those programs are not aligned to their educational goals. This bill saves nonresident students money and makes higher education more accessible."

   The author further claims, "SB 1141 corrects unintended consequences that have left out some undocumented students from accessing AB 540 benefits. To increase the accessibility of higher education for undocumented students, SB 1141 changes the threshold to qualify for AB 540 from 3 years to 2. This saves AB 540 eligible students time and an average of $8,700 in tuition per academic year at a community college; $11,880 at a CSU; and $28,992 at a UC."

2) *Nonresident vs resident tuition.* Persons deemed as nonresidents of California for purposes of paying tuition at a California public institution at UC, CSU or CCC, are charged a significantly higher tuition rate than the amount charged for

resident tuition. In the current year, at CCCs, California residents pay $46 per unit while nonresidents pay $346 per unit. At CSU, undergraduate resident students pay $5,742 per year in mandatory systemwide tuition fees, while nonresident students pay $15,246. Within the UC system, undergraduate resident students pay $13,104 per year while nonresident students pay $44,130.

3) *Legislative history.* AB 540 provided a means of qualifying long-term California residents, upon graduation from a California high school and regardless of citizenship status, for lower resident fees at our public segments of higher education. It required students and their families to demonstrate their long-term presence by attending a California high school for three or more years, arguably as a means of ensuring that these students and their families invested sufficient time within the California school system and should accordingly receive benefits. In 2014, AB 2000 (Gomez, Chapter 675, Statutes of 2014) sought to extend eligibility to long term Californians in accelerated learning programs who graduate ahead of the attendance requirement but who attained high school credits equivalent to three or more years of full-time coursework in California from a California high school.

   Subsequent legislation, SB 68 (Lara, Chapter 496, Statutes of 2018) significantly expanded pathways for qualifying a student by either attendance or attainment of equivalent credits earned from an expanded list of California schools including community colleges. However, it restricted full-time attendance in CCC credit courses that can count toward the three-year threshold to two-years leaving one year of credit to be applied from a California school other than a community college. SB 68 also provided an alternative to the high school graduation requirement, with attainment of an associate degree or fulfillment of minimum transfer requirements from a CCC. SB 68 ultimately extended privileges to long-term Californians who were adult learners seeking access to higher education.

4) *Removes two-year cap for CCC attendance.* Current law exempts nonresident students from paying the higher tuition rate if they have attended a combination of adult school, community college, secondary or elementary school in California for a minimum of three years. However, within the three-year minimum only two-years of CCC credit courses can be applied towards meeting the attendance requirement. The sponsors of this bill argue that the cap forces CCC students take one-year of noncredit courses. A situation likely resulting from having no other California elementary, secondary, or adult school connection. This bill removes that cap.

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

According to the Assembly Appropriations Committee:

- Unknown, ongoing General Fund costs, potentially in the millions of dollars annually, to UC.

  The number of students who would be newly eligible for resident tuition as a result of this bill at UC is unknown. However, if 400 domestic nonresident students enrolled at a UC who under current law would be charged nonresident supplemental tuition, costs would be about $12 million each year. In addition, UC provides financial aid to low-income resident students through its UC Grant program. To the extent students newly eligible for resident tuition are low-income, the UC may provide financial aid to these students, potentially resulting in additional General Fund costs to the UC.

- Unknown, ongoing General Fund costs, potentially in the millions of dollar annually, to CSU.

  The number of students who would be newly eligible for resident tuition as a result of this bill at CSU is unknown. However, if 500 domestic nonresident enrolled at a CSU who under current law would be charged nonresident supplemental tuition, costs would be about $6 million each year.

- Unknown, ongoing Proposition 98 General Fund costs, potentially millions of dollars annually, to CCC.

  The number of students who would be newly eligible for resident tuition as a result of this bill at CCC is unknown. However, if 600 domestic nonresident students enrolled at a CCC who under current law would be charged nonresident supplemental tuition, costs would be about $4 million each year. In addition, CCC provides financial aid to low-income resident students through its California Promise Grant program. To the extent students newly eligible for resident tuition are low-income, the CCC would provide financial aid to these students, potentially resulting in additional Proposition 98 General Fund costs in the high hundreds of thousands annually.

  The state would need to reimburse these costs to CCC, if the Commission on State Mandates determines he bill's requirement to be a reimbursable state mandate.

- Unknown, ongoing General Fund costs to the California Student Aid Commission (CSAC), potentially in the hundreds of thousands to millions of dollars annually, to provide Cal Grant financial aid to students, to the extent students newly eligible for resident tuition are low-income and qualify for a Cal Grant financial aid entitlement award.

  The Cal Grant covers tuition costs for qualifying low-income resident students. Therefore, costs would depend not only on the number of students newly eligible for the award, but also tuition costs at the type of institution they attend.

SUPPORT: (Verified 8/23/22)

California Community Colleges Chancellor's Office (source)
Office of Lieutenant Governor Eleni Kounalakis
Academic Senate for California Community Colleges
Cabrillo Community College District
Cal State Student Association
California Catholic Conference
California Charter Schools Association
California Community Colleges Chief Instructional Officers
California Student Aid Commission
California Undocumented Higher Education Coalition
Cañada College
College of San Mateo
Community College League of California
Compton Community College District
Contra Costa Community College District
El Camino College
El Camino Community College District
Faculty Association of California Community Colleges
Foothill-de Anza Community College District
Immigrants Rising
Independent California Colleges Advocate Program
Irvine Valley College Dream Scholars
John Burton Advocates for Youth
League of Women Voters of California
Long Beach Community College District
Los Angeles Unified School District
Los Rios Community College District
Miracosta Community College District
Monterey Peninsula College

Napa Valley College
Norcal Resist
North Orange County Community College District
Palo Verde Community College District
Pasadena Area Community College District
Porterville College
Rancho Santiago Community College District
Rio Hondo College
Riverside Community College District
San Bernardino Community College District
San Bernardino Valley College
San Diego City College President's Office
San Diego College of Continuing Education
San Diego Community College District
San Jose-evergreen Community College District
Santa Barbara City College
Shasta-Tehama-Trinity Joint Community College District
Southern California College Access Network
Southwestern Community College District
Strategic Education Services
UC Berkeley Undocumented Community Council
Ventura County Community College District
West Hills Community College District

OPPOSITION: (Verified 8/23/22)

None received

ASSEMBLY FLOOR: 61-11, 8/24/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Seyarto, Smith, Voepel

NO VOTE RECORDED: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Gray, Irwin, Patterson

Prepared by: Olgalilia Ramirez / ED. / (916) 651-4105
8/24/22 19:40:34

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

Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SB 1143
Author: Roth (D), et al.
Amended: 8/15/22
Vote: 27

SENATE HEALTH COMMITTEE: 10-0, 4/27/22
AYES: Pan, Melendez, Eggman, Gonzalez, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Grove

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/19/22
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SENATE FLOOR: 39-0, 5/25/22
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Hertzberg

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

SUBJECT: Acute Care Psychiatric Hospital Loan Fund

SOURCE: Author

DIGEST: This bill establishes the California Acute Care Psychiatric Hospital Loan Fund to provide zero-interest loans to qualifying county applicants for the purpose of constructing or renovating acute care psychiatric hospitals or psychiatric health facilities, or renovating or expanding general acute care hospitals in order to add or expand an inpatient psychiatric unit.

Assembly Amendments add psychiatric health facilities to the list of facilities eligible for the loan fund, require all moneys in the loan fund to be continuously

appropriated, and permit moneys in the loan fund not required for current needs to be invested in eligible securities.

ANALYSIS:

Existing law:

1) Licenses and regulates hospitals, including general acute care hospitals and an acute psychiatric hospitals (APHs), by the California Department of Public Health (CDPH). Permits general acute care hospitals, in addition to the basic services all hospitals are required to offer, to be approved by CDPH to offer special services, including, among other services, an emergency department, and psychiatric services. [HSC §1250 and §1255, et seq.]

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

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

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

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

6) Establishes the California Health Facilities Financing Authority (CHFFA) consisting of nine members, led by the State Treasurer who serves as the chair, and the executive director, who is appointed by the State Treasurer. States the intent of the Legislature to provide financing to health institutions that can demonstrate the financial feasibility of their projects, and that any savings experienced by the health institution be passed on to the consuming public through lower charges or containment of the rate of increase in hospital rates. [GOV §15430, et seq.]

This bill:

1) Establishes the California Acute Care Psychiatric Hospital (CACPH) Loan Fund to provide zero-interest loans to qualifying county applicants for the purpose of constructing or renovating APHs, as defined, constructing or renovating PHFs, as defined, or renovating or expanding general acute care hospitals in order to add or expand an inpatient psychiatric unit.

2) Requires all moneys in the CACPH Loan Fund to be continuously appropriated without regard to fiscal years to CHFFA, and requires all moneys accruing to CHFFA pursuant to this bill from any source to be deposited into the fund.

3) Permits the California State Treasurer to invest moneys in the CACPH Loan Fund that are not required for its current needs in eligible securities, as specified, and to transfer moneys in the fund to the Surplus Money Investment Fund, as specified.

4) Requires CHFFA to develop an application for county applicants to the CACPH Loan Fund, and requires the application to include requests for relevant information, such as project goals, costs, demonstrated need, timeline for the project, financial feasibility of the project, and other information deemed necessary for evaluation of creditworthiness and public benefit criteria established by CHFFA.

5) Requires the application developed in 4) above to be available by January 1, 2024, in accordance with CHFFA's existing regulations or any necessary amendments, which are required to be undertaken as emergency regulations, if necessary.

6) Permits applications to be submitted to the authority by county applicants pursuant to criteria to be developed by CHFFA, and requires initial preliminary

applications for projects to be considered to be submitted to the authority no later than April 1, 2024. Permits CHFFA to establish subsequent application periods, as necessary.

7) Requires CHFFA, in the event that it receives or anticipates receiving more applications than its allocation of moneys can support, to consider any of the following criteria in the selection of projects:
   a) The county's unmet need for acute care psychiatric hospital infrastructure, with priority given to applicants with greater unmet need;
   b) Whether a local match is available, and priority is given to projects with a local match based on the proposed number of acute psychiatric beds:
      i) For a project with 75 beds or greater, requires priority to be given to projects with a 20% match;
      ii) For a project with 50 beds, requires priority to be given to projects with a 30% match;
      iii) For a project with 25 beds, requires priority to be given to projects with a 40% match; and,
      iv) For a project with fewer than 25 beds, requires priority to be given to projects with a 50% match;
   c) Medically underserved regions in the state; and,
   d) When considered as a whole, applications approved pursuant to this bill are fairly representative of various geographical regions, including inland regions of the state.

8) Requires a loan recipient to maintain the facility and provide sufficient staff to operate the facility throughout the life of the loan.

9) Makes various legislative findings and declarations, including that psychiatric beds are an essential infrastructure for meeting the needs of individuals with serious mental health conditions, psychiatric bed capacity is severely strained in California, and that hundreds of Californians in need of psychiatric beds are held in hospital emergency rooms or county jails awaiting openings in inpatient care settings.

Comments

1) *Author's statement.* According to the author, California is home to over 1 million adults who are afflicted with serious mental disorders, such as schizophrenia and/or bipolar disorder, with over 477,000 people going untreated. Psychiatric beds are essential infrastructure for meeting the needs of

individuals with severe mental health conditions. The lack of APH beds has increased the strain on the complex and interconnected mental health delivery system for inpatient care. In the rapidly growing and ethnically diverse area of Inland Southern California, the shortage of beds is particularly severe, per OSHPD data. For example, Riverside County currently has 8.3 inpatient psychiatric beds per 100,000 people. SB 1143 would provide qualifying counties with an opportunity to access scarce infrastructure dollars to construct new acute APHs.

2) *Background on existing CHFFA programs.* CHFFA was created to be the state's vehicle for providing financial assistance to public and nonprofit health care providers primarily through loans funded by the issuance of tax-exempt bonds. To this end, CHFFA administers the Bond Financing Program and the Tax-Exempt Equipment Financing Program. CHFFA also provides direct loans to small and rural health facilities through the Healthcare Expansion Loan Program (HELP) II Financing Program. In September of 2021, the Governor signed into law the Nondesignated Public Hospital Bridge Loan Program to enable CHFFA to issue up to $40 million in working capital loans at zero interest rate to certain hospitals that are affected by financial delays associated with the transition to the Quality Incentive Program. These Nondesignated Public Hospital Bridge Loans are required to be paid back in two years, and are secured by Medi-Cal reimbursements. Additionally, CHFFA administers several grant programs, including the Children's Hospital Programs, the Community Services Infrastructure Grant Program, and the Investment in Mental Health Wellness Grant Program. Under the Mental Health Wellness grant program, Counties can apply for funding to develop a continuum of crisis services to children and youth up to 21 years of age in four categories: crisis residential treatment, crisis stabilization, mobile crisis support teams, and family respite care. There was an initial allocation of about $40 million for this Mental Health Wellness grant program, and there is still about $9 million available for mobile crisis support team programs.

   By borrowing through CHFFA’s tax-exempt bond financing program, health facilities can likely obtain lower interest rates than they would through conventional bonds. Generally, non-profit, licensed health facilities in California, including adult day health centers, community clinics, skilled nursing facilities, developmentally disabled centers, hospitals, and drug and alcohol rehabilitation centers are eligible for CHFFA financing. Proceeds from CHFFA financings may be used for project-related costs, including: construction; remodeling and renovation; land acquisition (as part of the

proposed project); acquisition of existing health facilities; purchase or lease of equipment; refinancing or refunding of prior debt; working capital for start-up facilities; costs of bond issuance; feasibility studies; and reimbursement of prior expenses. Under statute, savings from issuance of tax-exempt bonds for borrowers must be transferred to the public through lower or contained costs for delivery of health services. Since its first bond issuance in 1981, CHFFA's bond financing program has issued 639 bonds for a total of approximately $46 billion, with 275 health facilities availing themselves of this financing.

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

4) *IMD exclusion, possible waiver, and continuum of care grant program.* Under the Medi-Cal program, federal rules do not allow for a federal match for adults under the age of 65 who are receiving care in a treatment facility with more than 16 beds. This is known as the Institute for Mental Disease (IMD) exclusion. Federal rules define an IMD as any "hospital, nursing facility, or other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases." Because the rule requires the institution to "primarily" be established and maintained for the care of individuals with mental disease, that means that a general acute care hospital,

even if it has a large wing with more than 16 beds dedicated to in-patient psychiatric care, would not be considered an IMD as long as more than 50% of all admitted patients at the hospital were there for non-psychiatric reasons. The IMD exclusion is the reason that 29 out of the 33 PHFs licensed statewide, the majority of which are operated by counties, have 16 or fewer beds.

The federal Centers for Medicare and Medicaid Services (CMS) began approving waivers from the IMD payment exclusion for treatment of substance abuse disorders in 2016. In 2018, CMS created a similar waiver for those with serious mental illnesses or emotional disturbances. California is currently one of 34 states that operate under the waiver from the substance abuse treatment exclusion, which it sought as part of its 2020 CalAIM waiver request. An IMD waiver for mental illness would require that communities develop and demonstrate a robust continuum of care so that patients could be "stepped down" to community-based care as their condition improves. To prepare for an IMD waiver request, the 2021-22 Budget authorized DHCS to establish the Behavioral Health Continuum Infrastructure Program (BHCIP) and awarded $2.2 billion to local public and private entities to construct, acquire, and expand properties and invest in mobile crisis infrastructure related to behavioral health. DHCS is releasing these funds through six grant rounds targeting various gaps in the state's behavioral health facility infrastructure. It is unclear at this time when an IMD waiver for mental illness will be submitted, or approved, or what conditions will be associated with allowing Medi-Cal payment for IMDs with more than 16 beds.

5) *Support if amended.* The California Behavioral Health Directors Association (CBHDA) supports the intent of this bill, but requests amendments. Specifically, CBHDA requests that qualifying county applicants include community partners with the background and expertise in developing hospitals and health facilities, including demonstrating support from county behavioral health agencies and their contracted providers; requests that the prioritization criteria not favor large facilities due to the IMD exclusion; and, requests the loan fund support the development of co-located facilities that support clients moving from higher levels of psychiatric inpatient care to a co-located lower level of care.

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

According to the Assembly Appropriations Committee:

1) CHFFA indicates costs would depend on the total program allocation amount, the average size of a loan, and the number of applications CHFFA would receive in a year to process. CHFFA estimates costs of $1.2 million (General Fund) for three staff and consulting costs of approximately $150,000 to develop a new revolving loan fund program. Such a program would require development of regulations, policies, and forms, and a loan tracking system. Staff would also review loan applications and make recommendations to approve the loans.

2) Minor and absorbable costs to the Department of Health Care Access and Information.

SUPPORT: (Verified 8/22/22)

ABC Recovery Center
American Medical Response
Ark Homes Foster Family Agency
California Council of Community Behavioral Health Agencies
California Medical Association
ChildNet Youth and Family Services
City of Corona
City of Hemet
City of Riverside
City of San Diego
County of Riverside
Coachella Valley Rescue Mission
County of Riverside
Desert Care Network
Eisenhower Health
Greater Riverside Chambers of Commerce
Heart Matters Foster Family Agency
Inland Empire Health Plan
Kaiser Permanente
MFI Recovery Center
Monday Morning Group of Western Riverside County
Moreno Valley Chamber of Commerce
National Alliance on Mental Illness, Coachella Valley
National Alliance on Mental Illness, Mt. San Jacinto
National Union of Healthcare Workers

Oasis Behavioral Health
Plan-It Life
Psychiatric Physicians Alliance of California
Riverside County Board of Supervisors
Riverside County Workforce Development Board
Riverside Latino Commission on Alcohol and Drug Abuse Services
San Gorgonio Memorial Hospital
Southwest Healthcare System
Starting Over
Telecare Corporation
Temecula Valley Hospital
Tenet Healthcare
Union of American Physicians and Dentists

OPPOSITION: (Verified 8/22/22)

Department of Finance

ARGUMENTS IN SUPPORT: This bill is supported by a number of organizations in the health care, local government, and business community. Riverside County states in support that it is actively planning for the replacement of their existing psychiatric facility with a modern, 100-bed facility. Riverside County states that this facility, which will be an expansion to the Riverside University Health System Medical Center, will include 4 adult inpatient units with 18 beds each, an adolescent inpatient unit of 12-16 beds, and a pediatric inpatient unit of 12 beds. Riverside County anticipates the total cost of this facility to be approximately $300 to $400 million. This bill provides a critically needed opportunity for the state to help facilitate an investment in infrastructure that serves to improve patient outcomes for the betterment of all of us. The Inland Empire Health Plan (IEHP) states that as the entity coordinating care for 1.5 million Medi-Cal beneficiaries in San Bernardino and Riverside Counties, they are acutely aware of the mental health challenges in the region. IEHP is encourage by other efforts the state is pursuing to increase access to mental health services, and this bill is important to that framework. The California Medical Association states in support that this bill has the potential to reduce patient overcrowding in emergency rooms, while creating additional space and beds for physicians practicing in a psychiatric setting.

ARGUMENTS IN OPPOSITION: The Department of Finance (DOF) opposes this bill, stating that creating of a new loan program should be considered in the context of competing budgetary priorities because the identified costs and

resources required to implement the bill create General Fund cost pressure. Additionally, DOF states that this bill does not include certain loan program protections for the state such as security for the loans via Medi-Cal reimbursements if applicable or a maximum loan repayment term, given it authorizes CHFFA to indefinite loan repayment extensions.

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

Prepared by: Vincent D. Marchand / HEALTH / (916) 651-4111
8/22/22 19:59:29

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

SENATE RULES COMMITTEE SB 1193
Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SB 1193
Author: Newman (D), et al.
Amended: 8/18/22
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 16-0, 4/19/22
AYES: Gonzalez, Bates, Allen, Archuleta, Becker, Cortese, Dahle, Dodd, Limón, McGuire, Melendez, Min, Newman, Rubio, Skinner, Wieckowski
NO VOTE RECORDED: Wilk

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

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

ASSEMBLY FLOOR: 77-0, 8/23/22 - See last page for vote

SUBJECT: Department of Motor Vehicles: electronic notifications and transactions

SOURCE: Author

DIGEST: This bill allows for Department of Motor Vehicles (DMV) customers to opt in to receiving select DMV notices electronically.

Assembly Amendments make technical changes and deal with chaptering-out conflicts with SB 837 (Umberg).

ANALYSIS:

Existing law:

1) Requires a state department, including the DMV, or a division, officer, employee, or agent, to give various notices or communications to persons, and requires that whenever that notice is required to be given, the notice is to be given either by personal delivery, by certified mail, or by mail.

2) Requires that whenever notice is required to be given by the DMV, the notice shall be given either by personal delivery to the person to be notified; by certified mail, return receipt requested; or by mailing the notice, postage prepaid, addressed to the person at their address as shown by the records of the DMV.

3) Specifies that the giving of notice by personal delivery is complete upon delivery of a copy of the notice to the person to be notified. The giving of notice by mail is complete upon the expiration of four days after deposit of the notice in the mail, except that in the case of a notice informing a person of an offense against them, the notice is complete 10 days after mailing.

4) Specifies that wherever a notice or other communication is required to be mailed by registered mail by or to a person or corporation, the mailing of that notice or other communication by certified mail, shall be deemed to be a sufficient compliance with the requirements of law.

5) Requires a person to have a valid license or temporary permit issued by the DMV to act as a vehicle salesperson, and requires the DMV to issue a license bearing a full-face photograph of the licensed vehicle salesperson, among other information, upon their application for the license.

This bill:

1) Permits certain DMV notices, currently required by law to be mailed, to be delivered electronically.

2) Specifies that the giving of notice by electronic notification is complete upon sending the electronic notification.

3) Specifies that wherever a notice or other communication is required, electronic notification shall be deemed to be a sufficient compliance with the requirements of law.

4) Authorizes, for a provision of the Vehicle Code or of Title 13 of the California Code of Regulations that requires the DMV to mail, notify, deliver via certified or first class mail, provide information in written form, or otherwise references the use of paper, a writing, or the mail to convey information to a person of any departmental actions related to a permit, license, identification card, endorsement, certificate, or vehicle registration, that requirement may be satisfied by electronic notification, including, but not limited to, email, if the all of the following are established by the DMV:

   a) The DMV identified the person prior to accepting their consent to receive the type of document or information that is electronically delivered.

   b) The person consented to the electronic receipt of the type of document or information delivered.

   c) The DMV permits a person to withdraw their consent to electronically receive the type of document or information.

   d) The DMV records do not indicate the person withdrew their consent to electronically receive this type of document or information as of the date the document or information was electronically sent.

5) Specifies that for a provision of this code that refers to an address for any kind of notice or mailing, and mailing is effected pursuant to this section, an email or electronic delivery address provided to the DMV by the recipient may be used.

6) Specifies that a person who provides an electronic delivery address to the DMV shall notify the DMV of any change to that address.

7) Specifies the consent to accept electronic notification may be made electronically.

8) Specifies the DMV may adopt regulations to implement this section.

9) Permits the DMV to require a photograph at the time of the license renewal.

10) Removes the requirement that a vehicles salesperson's license be renewed in person.

11) Removes the requirement that a veteran come into the DMV to apply for a veteran designation.

Comments

1) *Purpose*. According to the author, "In response to the ongoing COVID-19 pandemic, DMV has deployed new technologies and services to streamline workflow processes and improve the customer experience. SB 1193 continues the DMV's modernization progress by allowing customers the option to receive paperless notifications and apply for a veteran designation or renew a vehicle salesperson license online without an in-person visit. By allowing for electronic notices and reducing the number of required in-person transactions, this bill will reduce wait times at DMV locations while improving overall efficiency and the customer experience for veterans, vehicle salespersons, and people who prefer 'paperless' notifications."

2) *Going Paperless*. Currently, the DMV allows for customers to opt in to receive limited electronic notices. These notices include driver's license renewal notices, identification card renewal notices, vehicle/vessel renewal notices. This bill will expand the DMV's ability to include other notices, provided the customer consents to and opts into paperless notices. When a customer logs into their DMV account they navigate to the "paperless notices" tab under their account. They are given an "agreement for paperless notices" prompt that notifies the customer they are electronically consenting to receive selected DMV notices electronically. The prompt also provides that the customer can withdraw consent, change their preferences back to paper notices, or request paper notices at any time. To withdraw their consent and change their preferences back to paper notices, the customer logs into their DMV account and navigates to the "paperless notices" tab under their account again. The customer then clicks the "deselect all" option and then clicks update. The customer will then begin receiving notices in paper format.

3) *Veteran Designations*. Under current law, a veteran has the option to have their veteran status printed on their driver's license or identification card to help them quickly identify themselves and receive benefits they are entitled to. The veteran must pay a five dollar fee to the DMV. The veteran must reach out to their County Veteran Service Office (CVSO) to receive and complete their

Veteran Status Verification Form (VSD-001). This form is not available at the DMV but must be physically filed at the DMV before the DMV will update the veteran's driver's license or identification card. This bill removes the requirement that a veteran must come into the DMV to file their VSD-001. Notably, the veteran is still required to reach out to their CVSO to receive the VSD-001. This is important because the CVSO is responsible for connecting the veteran to many benefits they may not be privy to.

SB 837 (Umberg—pending on the Senate Floor) seeks to remove the $5 fee a veteran is required to pay for the designation. If SB 837 fails to become law, the $5 fee could also be paid electronically, meaning at no point in applying for the veteran designation will the veteran need to come in to the DMV office.

4) *Customer convenience.* DMV customers have expressed their discontent with DMV wait times. Similarly, many field offices were closed during the COVID-19 pandemic making it difficult for customers to receive services without the ability to do so online. To remedy the wait times and increase online servicing, the DMV is undergoing a modernization enhancement to provide customer notifications electronically to increase efficiency and decrease the need for DMV visits. This bill removes the in-person requirement for veterans applying for a veteran designation on their driver's license or identification card and for vehicle salespersons renewing their licenses. Coupled with the additional electronic notifications, this bill has the potential to reduce the number of required in-person DMV visits, which could reduce wait times, increase customer satisfaction, and alleviate DMV staff workload.

5) *Potential Savings*. As mentioned, this bill could create savings for DMV operators, depending upon customer behavior and opt-in rates. Savings may be realized over many fiscal years, and the potential for savings increase as the DMV evaluates and provides electronic notices for other types of required mailings across additional programs. According to the DMV, the potential annual savings for the driver's license suspension or revocations notices could reach $108,464 annually if only 30% of customers opted in, $65,736 if 20% opt in, and $32,868 if 10% opt-in.

6) *Receipt Confirmations*. Although electronic notices are more convenient and cost effective for the DMV there are many potential issues. If a customer gives electronic consent and subsequently receives a notice that goes directly to the customer's spam box, the notification is accidently deleted, or a customer suffers a medical or personal emergency and does not check their email for a

prolonged period of time, or is simply is unable to log into their email accounts, the customer may be unable to respond in a timely manner and may subsequently suffer DMV imposed penalties, including late fees. As SB 1193 is written, there are no protective provisions requiring confirmations of receipt of the electronic notifications. Instead, this bill declares that delivery is complete upon sending the electronic notification.

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

According to the Assembly Appropriations Committee, DMV anticipates no costs as a result of this bill. This is because, according to the DMV, it "now offers customers the opportunity to opt in to electronic notices for driver license and vehicle registration renewals." DMV reports it implemented this option with "existing resources," though DMV did not provide an estimate of the personnel or dollar amounts entailed by these "existing resources" or the department initiatives to which these resources were pulled in order to allow DMV to enable electronic notification.

In addition, this committee notes DMV's ability to make the information technology changes needed to enable electronic notices with nothing more than the use of "existing resources." This administrative economy is in contrast to the costs, "in the multiple millions of dollars," DMV reports for just about any other change proposed by the Legislature that effects DMV's informational technology systems, costs DMV attributes to its ongoing effort to implement what DMV refers to as the "Enterprise Modernization Project – the Digital eXperience Platform (DXP)."

DMV further contends use of electronic notices, as allowed by this bill, will result in administrative savings, mainly from removing need to procure envelopes, stationary and postage.

SUPPORT: (Verified 8/23/22)

American Legion, Department of California
AMVETS, Department of California
California New Car Dealers Association
Military Officers Association of America, California Council of Chapters
United Veterans Council, Santa Clara County
Vietnam Veterans of America, California State Council

OPPOSITION: (Verified 8/23/22)

None received

ASSEMBLY FLOOR: 77-0, 8/23/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Davies, Gray

Prepared by: Randy Chinn / TRANS. / (916) 651-4121
8/23/22 16:23:32

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

Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SB 1202
Author: Limón (D)
Amended: 8/18/22
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 3/29/22
AYES: Umberg, Borgeas, Durazo, Gonzalez, Hertzberg, Jones, Laird, McGuire, Stern, Wieckowski, Wiener

SENATE BANKING & F.I. COMMITTEE: 9-0, 4/6/22
AYES: Limón, Ochoa Bogh, Bradford, Caballero, Dahle, Durazo, Hueso, Min, Portantino

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

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

ASSEMBLY FLOOR: 77-0, 8/23/22 - See last page for vote

SUBJECT: Business entities: Secretary of State: document filings

SOURCE: Secretary of State, Shirley N. Weber, Ph.D.

DIGEST: This bill makes various technical, non-substantive, and clarifying changes throughout the Corporations Code in preparation for the Secretary of State's (SOS) automated filing system, including, among others, standardizing terms, making practices uniform across all business entity types, and updating cross-references. This bill also makes some other substantive changes, such as

removing a prohibition on disclosing certain information to the public under the Commercial and Industrial Common Interest Development Act.

Assembly Amendments change references to "affecting articles of conversion" to "effecting articles of conversion" and add chaptering out amendments with AB 1780 (Chen, 2022).

ANALYSIS:

Existing law:

1) Prohibits businesses whose name does not comply with certain requirements from registering with the SOS until they adopt, for purposes of transacting business in this state, an alternate or assumed name. (Corp. Code. §§ 201, 2106, 15901.08, & 17701.08.)

2) Requires the location of a principal office, which is sometimes also referred to as principal business office, designated office, chief executive office, place of business, or principal executive office, to be included on various forms filed with the SOS. (Corp. Code §§ 202, 17702.02, 17708.02, & 17710.06.)

3) Requires certificates of good standing, certificates of existence, and certificates that a name change was made in accordance with laws of the state or place of incorporation, declaration of trust, organization, or where formed to be filed with the SOS, as provided. (Corp. Code §§ 2101, 2107, 15909.02, 15909.06, 17708.02, & 17708.05.)

4) Prohibits the name of a limited partnership and a limited liability company from containing certain words, such as bank, insurance, trust, or corporation. (Corp. Code §§ 15901.08(g) & 17701.08(e).) Additionally prohibits the name of a limited liability company from including the words "insurer" or "insurance company" or any other words suggesting that it is in the business of issuing policies of insurance and assuming insurance risk. (Corp. Code § 17701.08(e).)

5) Authorizes the SOS to cancel filings of articles of domestic corporations, nonprofit corporations, or cooperative corporations, applications and certificates of limited partnerships and foreign limited partnerships, the filing of the registration of a limited liability partnership and foreign limited liability partnership, the articles of organization of a limited liability company, and the application and certificate of registration of a foreign limited liability company upon written notification that the item presented for payment has not been honored for payment after an initial notice to the agent for service of process or to the person submitting the instrument. If the amount has not been paid, the

SOS is required to give a second written notice of cancellation. (Corp. Code § 110.5, 5008.5, 12214.5, 15902.01(f), 15909.05(c), 16953(d), 16959(d), 17702.01(f), & 17708.06(c).)

6) Requires a foreign corporation, foreign limited liability company, or foreign limited partnership, to provide certain information to the SOS when applying for a certificate to transact business in this state. (Corp. Code §§ 2105, 15909.02, & 17708.02.)

7) Requires, under the Commercial and Industrial Common Interest Development Act, each association, whether incorporated or unincorporated, to submit to the SOS specified information concerning the association and development that it manages. (Civ. Code § 6760.) Requires the SOS to make the name, address, and either the daytime telephone number or email address of the association's onsite office or managing agent available only for governmental purposes and only to Members of the Legislature and the Business, Consumer Services, and Housing Agency, upon written request. (Id. at subd. (f).)

This bill:

1) Streamlines terms used across business entities by:

   a) Changing references to assumed name to alternate name; and
   b) Changing references to principal business office, designated office, chief executive office, place of business, or principal executive office to principal office.

2) Requires certificates of good standing, certificates of existence, and certificates related to a name change to be issued within the past six months from submission of application in California, as provided.

3) Prohibits, additionally, the name of a limited partnership from containing the words "insurer" or "insurance company" or any words suggesting that it is in the business of issuing policies of insurance and assuming insurance risks.

4) Authorizes the SOS to cancel filings of articles of domestic corporations, nonprofit corporations, or cooperative corporations, applications and certificates of limited partnerships and foreign limited partnerships, the filing of the registration of a limited liability partnership and foreign limited liability partnership, the articles of organization of a limited liability company, and the application and certificate of registration of a foreign limited liability company within 90 days of written notification that the item presented for payment has not been honored for payment.

a) Clarifies that these provisions also apply to certificates effecting a conversion, as specified.
b) Additionally applies these provisions to partnerships, as specified.

5) Requires a foreign corporation to provide the SOS the name of the corporation, and if it does not comply with naming requirements for corporations an alternate name, and a statement the foreign corporation is authorized to exercise its powers and privileges in its state of incorporation or organization.

6) Deletes the requirement for a foreign limited partnership and foreign limited liability company to provide the SOS the date of organization in the state or other jurisdiction where they are organized.

7) Requires a foreign limited partnership to provide a statement that the foreign limited partnership is authorized to exercise its powers and privileges in the state or jurisdiction where it is organized.

8) Deletes the requirement that the SOS make the name, address, and either the daytime telephone number or email address of the association's onsite office or managing agent available only for governmental purposes and only to Members of the Legislature and the Business, Consumer Services, and Housing Agency, upon written request, under the Commercial and Industrial Common Interest Development Act.

9) Deletes the requirement under the Corporation Tax Law for the SOS to notify taxpayers that receipt of documents will be acknowledged and instead requires the SOS to provide the taxpayer a filing response in 21 days of receipt of the documents.

10) Updates various obsolete or incorrect cross-references, and makes various other nonsubstantive changes.

Background

The SOS launched the California Business Connect (CBC), its automated filing system, in the beginning of 2022. In preparation for the implementation of the CBC, the SOS sponsored several bills to make changes to the statutes governing how businesses register with, and provide documents to, the SOS. SB 1041 (Jackson, Chapter 834, Statutes of 2014) made various changes related to the implementation of the CBC, such as harmonizing statutes relating to the resignation of agents for service of process to provide consistency across different types of business entities, clarifying situations wherein a penalty for otherwise delinquent annual statements would not be applied, striking requirements for the

provision of additional copies of specified filings, and correcting various internal cross references. SB 1532 (Pavley, Chapter 494, Statutes of 2012) also enacted various changes in relation to the implementation of the CBC, including revising requirements with respect to the maintenance of forms filed with the SOS, and revising provisions relating to the assignment of filing dates and fees by the SOS.

This bill also makes numerous minor changes throughout the Corporations Code, many of which are technical in nature, but are geared at streamlining, clarifying, and updating existing law in order to enable the SOS to efficiently and effectively move to an automated system. For example, a business whose name does not comply with specified requirements cannot register with the SOS unless it adopts an alternate name or assumed name. This bill changes all references to assumed name to alternate name. Similarly, existing law requires a business to disclose the mailing address of its principal office, sometimes referred to as principal business office, designated office, chief executive office, place of business, or principal executive office. This bill streamlines the term across business entities to simply refer to principal office.

In addition, this bill seeks to address the variation of standards across business entity types, which requires the SOS to create different requirements in its forms and review procedures. This bill eliminates the differences in standards and eliminate the necessity for the SOS to adopt multiple procedures in their online forms. One such variation is that under existing law a foreign limited partnership and foreign limited liability company must provide the date of organization in the state or other jurisdiction where they are organized when registering with the SOS, but foreign corporations do not have this requirement. This bill deletes the requirement to provide the date of organization. Another variation is that a foreign limited liability company is required to provide the SOS a statement that it is authorized to exercise its powers and privileges in the jurisdiction of its organization, but foreign corporations and foreign limited partnerships are not. This bill requires foreign corporations and foreign limited partnerships to provide this statement.

This bill requires a foreign corporation to provide the SOS the name of the corporation, and if it does not comply with specified naming requirements, to provide an alternate name as other business entities are required to under existing law. This bill also prohibits the name of a limited partnership from including the words “insurer,” “insurance company,” or any words suggesting that it is in the business of issuing policies of insurance and assuming insurance risks as existing law does for limited liability companies. This bill also specifies that certificates of

good standing, certificates of existence, and certificates related to a name change be issued within the past six months from submission of application in California.

This bill also seeks to standardize the timeframe for giving notice before canceling specified filings of businesses upon written notification that an item presented for payment has not been honored. Under existing law, the time frame for giving this notice varies across business entities. For example, it is 70 days for nonprofit corporations and cooperative corporations but for others it is 90 days. This bill provides that the SOS is required to give notice within 90 days of written notification payment was not honored, and clarifies that the authority to cancel filings after the 90 day notice period applies to filings effecting a conversion as well. This bill additionally applies the authority to cancel a filing, including a filing effecting a conversion, to partnerships in the same manner as for other business entities.

The Commercial and Industrial Common Interest Development Act (Act) was enacted in SB 752 (Roth, Chapter 605, Statutes of 2013) and was modeled after the provisions in the Davis-Sterling Common Interest Development Act, which regulates residential property as opposed to commercial property. (Civ. Code § 4000 et. seq.) The Act requires an association to submit specified information to the SOS in order to assist with the identification of commercial or industrial common interest developments. (Civ. Code § 6760.) This information includes the name, address, and either the daytime telephone number or email address of the association's onsite office or managing agent. (*Id*. at (a)(5).) The statue specifies that the name, address, and either the daytime telephone number or email address of the association's onsite office or managing agent is only available for governmental purposes and only to Members of the Legislature and the Business, Consumer Services, and Housing Agency, but that all other information submitted to the SOS under that section is to be made available for public inspection pursuant to the California Public Records Act. (*Id*. at (f).)

This section was specifically modeled after Section 5405 of the Civil Code in the Davis-Sterling Common Interest Development Act, which also requires each association to submit specified information to the SOS. However, the information required is the name, address, and either the daytime telephone number or email address of the president of the association, other than the address, telephone number, or email address of the association's onsite office or managing agent. (Civ. Code § 5405(a)(5).) This information is extremely personal information of a private person and was therefore shielded from disclosure to the public by the limitation that the information is only available for governmental purposes and to specified governmental actors while all other information submitted under that

section was made subject to public inspection. (*Id*. at (f).) The information required to be submitted under the Act–the name, address, and daytime telephone number or email address of the association's onsite office or managing agent–is not personal information of a private person that warrants or needs shielding from public disclosure. The SOS believes that this limitation on disclosure was erroneously included when the Act was enacted and proposes deleting the entirety of subdivision (f) of Section 6760 of the Civil Code, thereby making the information submitted to the SOS under that section subject to the California Public Records Act in the same manner as any other public record.

In order to ensure that the deletion of subdivision (f) of Section 6760 of the Civil Code does not create an implication that the information in that section is not subject to the California Public Records Act in the same manner as any other public record, the author has agreed to add a clarifying amendment in an uncodified section of this bill to make it clear that the information is to be considered a public record.

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

According to the Assembly Appropriations Committee, minor and absorbable costs to the SOS to update informational materials and internal processes. Providing statutory consistency regarding business filing procedures will help reduce labor intensive manual processes, such as filing reviews, rejections and re-submissions, thus resulting in cost savings over time.

SUPPORT: (Verified 8/18/22)

Secretary of State, Shirley N. Weber, Ph.D. (source)

OPPOSITION: (Verified 8/18/22)

None received

ARGUMENTS IN SUPPORT: The author writes, "SB 1202 empowers the office of the Secretary of State to provide better customer service for Californians trying to start new businesses. The bill improves efficiency by clearing ambiguities and conflicts in the Corporations Code that will facilitate the transition from paper-based applications to a streamlined, digital experience. By taking into account modernized online filing functionalities, this bill simplifies filing processes with the Secretary of State and will result in a better experience for people starting a new business in California."

The sponsor of this bill, the Secretary of State, Shirley N. Weber, Ph.D., writes:

This bill is a key step toward making the business filing process more user friendly as part of the California Business Connect project within the Secretary of State (SOS). California Business Connect modernizes business filing processes by allowing customers to file documents and request records online 24 hours a day, 7 days a week.

SB 1202 makes focused and meaningful changes to support the goal of improved customer service and business filing efficiency. This bill ensures consistency and uniformity across entity types and removes confusing terminology from statute. Specifically, SB 1202 reduces confusing statutory language relating to definitions and terminology across entity types such as alternate names against assumed names, surrender against withdrawal pertaining to foreign corporations (formed outside California), and the multiple definitions of an entity's office address.

In addition, SB 1202 incorporates environmentally sound practices by allowing customers to use electronic documents, when applicable, in place of paper records. This measure also makes technical omnibus changes to standardize the processing and handling of SOS business customer transactions in line with recently enacted legislation. […]

ASSEMBLY FLOOR: 77-0, 8/23/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Davies, Gray

Prepared by: Amanda Mattson / JUD. / (916) 651-4113
8/23/22 14:43:37

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

SENATE RULES COMMITTEE SB 1203
Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SB 1203
Author: Becker (D), et al.
Amended: 8/15/22
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 9-3, 4/5/22
AYES: Dodd, Allen, Archuleta, Becker, Glazer, Hueso, Kamlager, Portantino, Rubio
NOES: Nielsen, Jones, Melendez
NO VOTE RECORDED: Borgeas, Bradford, Wilk

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-2, 4/27/22
AYES: Allen, Gonzalez, Skinner, Stern, Wieckowski
NOES: Bates, Dahle

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/19/22
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NOES: Bates, Jones

SENATE FLOOR: 30-9, 5/25/22
AYES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NOES: Bates, Borgeas, Dahle, Grove, Jones, Melendez, Nielsen, Ochoa Bogh, Wilk
NO VOTE RECORDED: Hertzberg

ASSEMBLY FLOOR: 63-4, 8/23/22 - See last page for vote

SUBJECT: Net-zero emissions of greenhouse gases: state agency operations

SOURCE: Author

DIGEST: This bill declares the intent of the Legislature that state agencies aim to achieve zero net emissions of greenhouse gasses (GHGs) resulting from their operations no later than January 1, 2035; requires each state agency to develop and publish a plan that describes its current GHG inventory, its planned actions for achieving net zero emissions, and an estimate of the costs associated with the planned actions, as specified; and, requires the Climate Action Team (CAT), among other things, to review and provide feedback on those plans to assist state agencies in establishing interim GHG emissions reduction targets, as specified.

Assembly Amendments remove any new requirements on the Climate Action Team, extend various deadlines, and specify that, subject to an appropriation by the Legislature, the Department of General Services (DGS) shall provide information, training, coordination, best practices, and other technical assistance to state agencies, as specified.

ANALYSIS:

Existing law:

1) The California Global Warming Solutions Act of 2006 designates the State Air Resources Board (ARB) as the state agency charged with monitoring and regulating sources of emissions of GHGs.

2) Requires the ARB to approve a statewide GHG limit equivalent to the statewide GHG emissions level in 1990 to be achieved by 2020 and to ensure that statewide GHG emissions are reduced to at least 40 percent below the 1990 level by 2030.

This bill:

1) States that it is the intent of the Legislature that all state agencies aim to achieve net-zero emissions of GHGs resulting from their operations, including scope 1 and scope 2 emissions, no later than January 1, 2035, or as soon as feasible thereafter, as specified.

2) Requires DGS, in making progress toward that goal, and in consultation with the ARB, to the extent feasible, do all of the following:

    a) On or before July 1, 2024, and annually thereafter until the goal has been achieved, publish an inventory of GHG emissions of state agencies for the prior calendar year, as specified.

b) On or before January 1, 2026, develop and publish a plan that describes required actions and investments for achieving the goal and an estimate of the costs associated with required actions and investments, as specified.
c) Beginning June 30, 2028, and every two years thereafter until the goal has been achieved, develop and publish an update plan that includes a description of state agencies' progress, and any changes to the required actions and investments, as specified.
d) Ensure that the required actions and investments are incorporated into the sustainability roadmaps of all state agencies.
e) Subject to an appropriations by the Legislature, provide information, training, coordination, best practices, and other technical assistance to state agencies to help those state agencies implement the required actions and investments, as specified.

3) Requires state agencies to incorporate the required actions and investments identified above into their future budget proposals, subject to appropriation by the Legislature, in order the achieve the net-zero emissions goal, as specified.

4) Requires DGS, beginning December 31, 2027, and every two years thereafter, until the goal is achieved, to report to the Legislature on the progress toward achieving that goal, including on both of the following:

a) The overall GHG emissions from all state agencies and a summary of actions taken by state agencies since the submission of the last report.
b) Barriers that are hindering progress and suggested actions that the Legislature could take to reduce those barriers.

5) Defines "scope 1 emissions" to mean all direct emissions from sources that are owned or controlled by the state agency, including, but not limited to, emissions from onsite fossil fuel combustion and fleet fuel consumption.

6) Defines "scope 2 emissions" to mean all indirect emissions from sources that are owned or controlled by the state agency, including, but not limited to, emissions that results from the generation of electricity, heat, or steam purchased by the state agency from a utility provider.

7) Defines "state agency" to mean any state agency, board, department, or commission.

Background

Purpose of the bill. According to the author's office, "California has been leading the world in reducing our GHGs and has set a goal for the whole state to be net-zero by 2045. We are asking our companies and our citizens to figure out how to reduce their emissions dramatically in order to hit that target. I believe we in the state government need to lead by example. We need to show how to get to net-zero before we ask everyone else to do it."

Statewide Goal. Governor Brown signed Executive Order B-55-18 in September 2018 to establish a statewide goal to achieve carbon neutrality as soon as possible, and no later than 2045, and to achieve and maintain net negative emissions thereafter. This goal has not yet been codified in statute. This bill states that it is the intent of the Legislature that all state agencies "aim to achieve" net-zero emissions from their own operations by 2035, 10 years ahead of the 2045 statewide goal.

Scope Framework. Scope 1 emissions cover direct emissions that occur from sources owned or controlled by an organization, such as fuel combustion, company vehicles, and fugitive emissions. Scope 2 emissions cover indirect emissions associated with the purchase of electricity, steam, heating, or cooling consumed by the organization. Scope 3, which is not included in this bill, includes all other indirect emissions that occur in an organization's supply chain, such as purchased goods and services, business travel, and employee commutes.

State Agency Emissions. According to the 2020 Report Card, state agencies account for approximately 0.3% of California's emissions. The bulk of state agencies' emissions stem from the use of electricity and natural gas in state buildings, the emissions of which are attributed to electrical and gas providers, not state government. These emissions will decrease as providers move toward cleaner energy sources as a result of policies such as the Renewables Portfolio Standard and Cap-and-Trade Program. The other major source of emissions for state agencies is from the combustion of vehicle fuel, which the Low Carbon Fuel Standard and other complementary state policies are working to reduce. The most recent Report Card shows that from 2010-2019, state agencies reduced emissions by 56%, primarily due to the Department of Water Resources' divestiture of the Reid Gardner coal-fired power plant in mid-2013.

Office of Sustainability. DGS assists state agencies in meeting the state's climate goals and demonstrating leadership in state buildings. Through the Office of

Sustainability and the development of policies in the State Administrative Manual, DGS coordinates implementation of state sustainability initiatives. DGS's "2020-2021 Sustainability Road Map" notes key accomplishments, including a prohibition on state agency purchases of any sedan solely powered by an internal combustion engine, with exemptions for certain public safety vehicles, as well as a requirement for all new state buildings beginning design after October 2017 to be constructed to zero-net-energy (ZNE) standards. DGS expects 75% of its buildings will be ZNE by 2025. Other areas of focus include electrification in new construction, onsite renewable energy generation, community solar agreements, water use reduction, environmentally preferable purchasing, and more

Related/Prior Legislation

SB 905 (Skinner, 2022), among other things, establishes the Decarbonized Cement and Geologic Carbon Sequestration Demonstration Act, as specified. (Pending on the Assembly Floor)

SB 1010 (Skinner, 2022) increases the percentage of newly purchased zero-emission vehicles purchased by the state for the state vehicle fleet, as specified. (Pending on the Assembly Floor)

SB 1145 (Laird, 2022) requires ARB to create and maintain a GHG emission dashboard to provide the public information regarding how the state is progressing towards meeting its climate goals. (Ordered to Engrossing and Enrolling)

SB 1305 (Laird, Chapter 152, Statutes of 2022) required DGS to maximize the purchase and availability of alternative fuel vehicles in the state vehicle fleet, as specified.

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

According to the Assembly Appropriations Committee:

- Unknown costs, likely in the hundreds of thousands to low millions of dollars, for DGS to publish the GHG inventory, develop action plans, update these plans, and report to the Legislature.

- Unknown but likely significant future cost pressures for state agencies to achieve the 2035 goal, subject to appropriation by the Legislature.

SUPPORT: (Verified 8/23/22)

350 Bay Area Action
350 Humboldt: Grass Roots Climate Action
350 Silicon Valley
Acterra
California Climate Reality Coalition
California Efficiency + Demand Management Council
California Environmental Voters
Carbon Free Palo Alto
Carbon Free Silicon Valley
Central Coast Energy Services
Clean Power Campaign
Clean Water Action
Climate Reality Project, Riverside County Chapter
Climate Reality Project, San Fernando Valley
Climate Reality Project, Silicon Valley
Elders Climate Action, Norcal and Socal Chapters
Environment California
Environmental Defense Fund
Friends Committee on Legislation of California
Menlo Spark
Natural Resources Defense Council
NextGen California
Peninsula Clean Energy
Silicon Valley Youth Climate Action

OPPOSITION: (Verified 8/22/22)

None received

ARGUMENTS IN SUPPORT: A coalition of supporters write that, "SB 1203 requires all of our state agencies to aim to achieve net-zero from their own operations by 2035, 10 years ahead of the 2045 goal set for the state under Governor Brown's Executive Order B-55-18. That means reducing emissions from state agencies' buildings and vehicles and from the electricity that they consume. Doing so will help demonstrate how net-zero can be achieved, create myriad public health and air quality benefits, drive early demand for the solutions that the whole economy will need eventually, and reduce the costs of those

solutions so that getting to net zero by 2045 will be less expensive for the state's residences and businesses."

ASSEMBLY FLOOR: 63-4, 8/23/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Megan Dahle, Fong, Seyarto, Smith
NO VOTE RECORDED: Bigelow, Chen, Choi, Davies, Flora, Gallagher, Gray, Kiley, Lackey, Mathis, Nguyen, Patterson, Voepel

Prepared by: Brian Duke / G.O. / (916) 651-1530
8/23/22 15:17:27

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

Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SB 1215
Author: Newman (D), et al.
Amended: 8/15/22
Vote: 27

PRIOR VOTES NOT RELEVANT

SENATE ENVIRONMENTAL QUAL. COMMITTEE: 5-0, 8/24/22 (Pursuant to Senate Rule 29.10)
AYES: Allen, Gonzalez, Skinner, Stern, Wieckowski
NO VOTE RECORDED: Bates, Dahle

ASSEMBLY FLOOR: 61-1, 8/22/22 - See last page for vote

SUBJECT: Electronic Waste Recycling Act of 2003: covered battery-embedded products

SOURCE: California Product Stewardship Council
Californians Against Waste
RethinkWaste

DIGEST: This bill expands the Electronic Waste Recycling Act (EWRA) to include battery-embedded products.

Assembly Amendments delete the Senate version of the bill and instead add the current language.

ANALYSIS:

Existing law:

1) Provides, pursuant to the Electronic Waste Recycling Act of 2003 (Act):

   a) Establishes processes for consumers to return, recycle, and ensure the safe and environmentally sound disposal of video display devices, such as

televisions and computer monitors that are hazardous wastes when discarded.

b) Requires fees collected on covered products to be deposited in the Electronic Waste Recovery and Recycling Account for specified purposes, including, but not limited to, paying covered electronic waste recycling fee refunds and making electronic waste recovery and recycling payments.

c) Imposes certain obligations on a manufacturer of a covered electronic device (CED), including, but not limited to, requiring a manufacturer to submit a report to the Department of Resource Recovery and Recycling (CalRecycle), as provided, and to make information available to consumers that describes where and how to return, recycle, and dispose of the CED. Defines "manufacturer" as either a person who manufacturers a CED sold in the state or a person who sells a CED in the state under that person's brand name.

2) Requires the Department of Toxic Substances Control (DTSC) to adopt regulations that prohibit an electronic device from being sold or offered for sale in California if the electronic device is prohibited from being sold or offered for sale in the European Union (EU) on and after its date of manufacture, to the extent that Directive 2002/95/EC, adopted by the European Parliament and the Council of European Union on January 27, 2003, as amended by the Commission of European Communities, prohibits that sale due to the presence of certain heavy metals.

3) Requires DTSC to adopt regulations to identify electronic devices that DTSC determines are presumed to be, when discarded, a hazardous waste. Requires a manufacturer of an electronic device that is identified in those regulations to send to any retailer that sells that electronic device a notice that identifies the electronic device and informs the retailer that the electronic device is subject to the covered electronic waste recycling fee.

4) Establishes the Cell Phone Recycling Act of 2004 prohibits the sale of a cell phone in this state to a consumer unless the retailer of that cell phone has in place a take-back system for the acceptance and collection of used cell phones for reuse, recycling, or proper disposal.

5) Establishes the Rechargeable Battery Recycling Act of 2006 to require every retailer, as defined, to have in place a system for the acceptance and collection of used rechargeable batteries for reuse, recycling, or proper disposal.

This bill:

1) Expands the definition of “covered electronic device” to include a “covered battery-embedded product,” thereby expanding the scope of the EWRA.

2) Defines "covered battery-embedded product" as a new or refurbished product containing a battery that is not intended to be easily removed from the product by the consumer with no more than commonly used household tools.

3) Provides that "covered battery-embedded product" does not include a medical device (as defined), a covered electronic device, an energy storage system, or an electronic nicotine delivery system.

4) Requires the Department of Resources, Recycling and Recovery (CalRecycle), on or before October 1, 2025, and annually thereafter, to establish a covered electronic waste recycling fee for covered battery-embedded products based on the reasonable regulatory costs of administering the covered electronic waste recycling program.

5) Authorizes, beginning on August 1, 2028, CalRecycle, in collaboration with DTSC, to establish more than one covered electronic waste recycling fee for covered battery-embedded products based on categories of those products.

6) Creates the Covered Electronic Waste Recycling Fee Subaccount and the Covered Battery-Embedded Waste Recycling Fee Subaccount as continuously appropriated funds in the Electronic Waste Recovery and Recycling Account.

7) Requires, on and after January 1, 2026, a consumer to pay a covered electronic waste recycling fee upon the purchase of a new or refurbished covered battery-embedded product.

8) Requires a retailer to collect the covered electronic waste recycling fee from the consumer and remit it to the California Department of Tax and Fee Administration (CDTFA).

9) Prohibits, on and after January 1, 2026, a person from selling or offering for sale in California a new or refurbished covered battery-embedded product unless the product is labeled with the name of the manufacturer or the manufacturer's brand label.

10) Requires a manufacturer of a covered battery-embedded product to provide a notice to any retailer that sells the covered battery-embedded product and CalRecycle. The notice shall identify the covered battery-embedded product by brand and model number and inform the retailer that the covered battery-embedded product is subject to the electronic waste recycling fee.

11) Requires, on or before July 1, 2027 and annually thereafter, a manufacturer of a covered battery embedded product to submit to CalRecycle a report including the number of covered electronic devices sold by the manufacturer during the previous year; the chemistry of the battery contained within the covered electronic devices sold by the manufacturer; a baseline showing the total estimated amount of recycled materials contained in covered electronic devices sold in that year; and, a list of retailers to which the manufacturer provided a notice required under the EWRA.

12) Requires that any information submitted to CalRecycle that is proprietary in nature or a trade secret be protected under state laws and regulations governing that information.

13) Requires a manufacturer of a covered electronic device to maintain and keep accessible for a minimum of 3 years all records required to be kept or submitted pursuant to the Act and, upon request, provide those records to CalRecycle. Requires all reports and records provided to CalRecycle pursuant to the Act be provided under penalty of perjury.

14) Requires the manufacturer to make information available to consumers that describes where and how to return, recycle, and dispose of covered battery-embedded products, through a toll-free phone number, internet website, information on the label or in the package of the product, or information accompanying the sale of the product.

Background

1) *Universal waste*. Universal wastes are hazardous wastes that are widely produced by households and many different types of businesses. Universal wastes include televisions, computers, other electronic devices, batteries, fluorescent lamps, mercury thermostats, and other mercury containing equipment, among others.

   California's Universal Waste Rule (California Code of Regulations, Title 22, Division 4.5, Chapter 11, Section 66261.9) allows individuals and businesses to

transport, handle, and recycle certain common hazardous wastes, termed universal wastes, in a manner that differs from the requirements for most hazardous wastes. The more relaxed requirements for managing universal wastes were adopted to ensure that they are managed safely and are not disposed of in the trash. To increase compliance, the universal waste requirements are also less complex and easier to comply with.

2) *Regulation of batteries*. The state's Hazardous Waste Control Law, prohibits the disposal of batteries in the trash or household recycling collection bins intended to receive other non-hazardous waste and/or recyclable materials. Many types of batteries, regardless of size, exhibit hazardous characteristics and are considered hazardous waste when they are discarded. These include single use alkaline and lithium batteries and rechargeable lithium metal, nickel cadmium, and nickel metal hydride batteries of various sizes (AAA, AA, C, D, button cell, 9-Volt) and small sealed lead-acid batteries.

   Many batteries are sold within products, such as lithium-ion batteries, which are widely used in portable electronics like laptops, smart phones, digital cameras, game consoles, and cordless power tools. These products would be considered "covered battery-embedded products" under SB 1215, if the battery is not designed to be removed from the product by the consumer.

3) *Electronic waste (E-Waste).* E-waste refers to any unwanted electronic device and is classified as universal waste. E-waste frequently contains hazardous materials, predominantly lead and mercury, and is produced by households, businesses, governments, and industries. Each year in California, hundreds of thousands of computers, monitors, copiers, fax machines, printers, televisions, and other electronic items become "obsolete" in the eyes of consumers. Rapid advances in technology and an expanding demand for new features accelerate the generation of ("E-waste"). The result is a growing challenge for businesses, residents, and local governments as they search for ways to reuse, recycle, or properly dispose of this equipment. To meet this challenge, California enacted the Electronic Waste Recycling Act of 2003 (SB 20 Sher, Chapter 526, Statutes of 2003), which established the covered electronic waste recycling program to offset the cost of compliantly handling certain unwanted electronic devices.

   In the 19 years since the passage of SB 20, approximately 2.2 billion pounds of covered video display devices have been recycled. However, to ensure the continued success of electronic device recycling in California, the law needs to be updated to include more devices and address other issues. Current law covers only a fraction of the types of electronic devices sold in California. Electronics

technology is rapidly evolving and electronics are becoming more intricate, specialized, and ubiquitous. Automation, sensors, and artificial intelligence are transforming all industries. The limited scope of devices addressed in SB 20 does not accommodate this flood of innovations.

CalRecycle's 2017 report, Future of Electronic Waste Management in California, notes under its key recommendations that California's current e-waste management program only covers a portion of the devices that can cause harm to public health and environmental safety. Without a change in the current program, millions of devices will continue to be illegally disposed of or improperly managed.

4) *This bill*. SB 1215 adds covered battery-embedded products to the EWRA and requires CalRecycle to establish a fee, paid by consumers on new or refurbished covered battery-embedded products, that covers the reasonable regulatory costs to properly manage and recycle the covered battery-embedded products and to administer the EWRA. This bill is a companion to AB 2440 (Irwin) that establishes an extended producer responsibility program for the collection and recycling of loose batteries, those batteries in products that are intended to be removed from a product by the consumer. The goal, between the two bills, is to improve the safe collection and recycling of batteries both in products and not in products.

Comments

1) *Purpose of Bill.* According to the author, "Because of the hazardous metals and corrosive materials that batteries contain, California classifies batteries as hazardous waste and bans them from solid waste landfills. When improperly discarded, lithium-ion (Li-ion) batteries in particular pose serious fire, health and safety hazards. In a world where batteries are increasingly powering everything, we still haven't solved for how to safely dispose of them. Currently, an estimated 75-92% of lithium-ion batteries are disposed of improperly.

"The influx of these batteries into our waste stream has resulted in an alarming number of fires in our material recovery facilities, waste collection trucks, and landfills – fires that pose serious toxic threats to the health and safety of workers, firefighters and the surrounding community. SB 1215 will replace the current, labyrinthine and unsafe process for battery disposal with a safe, convenient, and accessible system for consumers to safely dispose of depleted batteries. SB 1215 requires the producers of batteries and battery-embedded

products sold in California to develop, finance, and implement this program in collaboration with CalRecycle to recover and recycle their products."

Related/Prior Legislation

AB 2440 (Irwin, 2022) establishes the Responsible Battery Recycling Act of 2022 to create a stewardship program for the collection and recycling of covered batteries as defined. This bill is pending on the Senate Floor.

SB 289 (Newman, 2021) would have established the Battery and Battery-Embedded Product Recycling and Fire Risk Reduction Act of 2021 to require producers to establish a stewardship program for batteries and battery-embedded products. That bill was held in the Senate Appropriations Committee.

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

According to the Assembly Appropriations Committee, enactment of this bill could cost CalRecycle approximately $2.5 million per year, which would be covered by the fee on covered battery-embedded products, to cover regulatory costs and to administer the program. Additionally, the bill could cost the Department of Toxic Substances Control approximately $500,000 in one-time costs and $217,000 annually for one position. The CDTFA estimates significant general fund costs to identify and register fee payers and process the fee payments.

SUPPORT: (Verified 8/24/22)

California Product Stewardship Council (co-source)
Californians Against Waste (co-source)
Rethinkwaste (co-source)
Active San Gabriel Valley
Association of Home Appliance Manufacturers
California Professional Firefighters
California Resource Recovery Association
California Retailers Association
California State Association of Counties
California Waste Haulers Council
Central Contra Costa Sanitary District
City of Los Angeles
City of Roseville
City of Thousand Oaks
Clean Water Action
Consumer Technology Association

County of San Diego
CR&R, Inc.
Delta Diablo
Environmental Working Group
League of California Cities
Los Angeles County Sanitation Districts
Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force
Marin Household Hazardous Waste Facility
Monterey Regional Waste Management District
Napa Recycling & Waste Services
Northern California Recycling Association
Product Stewardship Institute
Recyclesmart
Republic Services - Western Region
Republic Services Inc.
Resource Recovery Coalition of California
Rural County Representatives of California
Santa Clara County Recycling and Waste Reduction Commission
Sea Hugger
Stopwaste
The Toy Association
Urban Counties of California
Western Placer Waste Management Authority
Zero Waste Company
Zero Waste Sonoma

OPPOSITION: (Verified 8/24/22)

None received

ARGUMENTS IN SUPPORT: According to the Consumer Technology Association, the California Retailers Association, the Toy Association, and the Association of Home and Appliance Manufacturers, "SB 1215 builds on nearly two decades of success for the e-waste program and is an approach that California consumers will be familiar with. It is our belief that this familiarity with the existing e-waste program will only help consumers understand what to do with their covered battery-embedded products at the end of life. By adding battery-embedded products to the existing e-waste program, SB 1215 avoids the confusion of a new system that would overlap with current collection and recycling practices.

Additionally, it is consistent with many existing e-waste program collectors who already voluntarily manage many battery-embedded products, like smart phones."

ASSEMBLY FLOOR: 61-1, 8/22/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Flora, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Low, Maienschein, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Stone, Ting, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Smith
NO VOTE RECORDED: Bigelow, Chen, Choi, Megan Dahle, Davies, Fong, Gallagher, Gray, Kiley, Lackey, Levine, Mathis, Nguyen, Patterson, Salas, Seyarto, Valladares, Voepel

Prepared by: Gabrielle Meindl / E.Q. / (916) 651-4108
8/24/22 19:40:34

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

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UNFINISHED BUSINESS

Bill No: SB 1228
Author: Wiener (D), et al.
Amended: 8/18/22
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 4/26/22
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: 6-0, 5/19/22
AYES: Portantino, Bates, Jones, Kamlager, Laird, Wieckowski
NO VOTE RECORDED: Bradford

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

ASSEMBLY FLOOR: 69-1, 8/24/22 - See last page for vote

SUBJECT: Criminal procedure: DNA samples

SOURCE: Office of San Francisco District Attorney

DIGEST: This bill prohibits entering samples from a victim or a person who voluntarily gave DNA for exclusion purposes into any DNA databank.

Assembly Amendments:

1) Clarify that the bill does not prohibit crime laboratories form collecting, retaining, and using for comparison purposes in multiple cases specified DNA profiles.

2) Clarify that the bill does not prohibit using specified profiles for quality assurance purposes.

3) Provide that the bill does not preclude a DNA testing laboratory from conducting a limited comparison of samples in order to evaluate DNA typing results for contamination.

4) Provide that it does not affect the inclusion of samples in specified state Data bases.

5) Include double-jointing language to deal with potential chaptering issues between this bill and SB 916 (Leyva).

ANALYSIS:

Existing law:

1) Creates the Sexual Assault Victims' DNA Bill of Rights. It regulates the timing of the testing of samples taken from a sexual assault victim including duties of crime labs and how the samples shall be upload to CODIS. (Penal Code Section 680)

2) Provides that all DNA and forensic identification profiles and other identification information retained by the Department of Justice pursuant to this chapter are exempt from any law requiring disclosure of information to the public and shall be confidential. (Penal Code Section 299.5)

This bill:

1) Adds to the Sexual Assault Victims' DNA Bill of Rights that DNA collected directly from a victim of sexual assault, and samples of DNA collected from intimate partners for the purposes of exclusion shall be protected as provided for in the section added by this bill.

2) Provides that the following apply to known reference samples of DNA from a victim or a witness to a crime or alleged crime, and to known reference samples of DNA from intimate partners or family members of a victim or witness voluntarily provided for the purpose of exclusion, as well as to any profiles developed from those samples:

   a) Law Enforcement agencies and their agents shall use these DNA samples or profiles for purposes directly related to the incident being investigated.

b) No law enforcement agency or agent thereof may compare any of these samples or profiles with DNA samples or profiles that do not relate to the incident being investigated.

c) No law enforcement agency or agent thereof may include any of these DNA profiles in any database that allows these samples to be compared to or matched with profiles derived from DNA evidence obtained from crime scenes.

d) No law enforcement agency or agent thereof may provide any other person or entity with access to any of these DNA samples or profiles, unless that person or entity agrees to abide by the restrictions on the use and disclosure of the sample or profile.

e) Every agent of a law enforcement agency shall return any remaining part of every DNA sample to that law enforcement agency promptly after it has performed the requested testing or analysis of that sample.

f) No agent of law enforcement agency may provide these DNA samples or profiles to any person or entity other than the law enforcement agency that provided them.

g) A person whose DNA profile has been voluntarily provided for purposes of exclusion shall have their searchable database profile expunged from all public and private databases if the person has not past or present offense or pending charge which qualifies that person for inclusion within the state's DNA and Forensic Identification Database and Databank Program.

3) Includes the following definitions:

a) The "incident being investigated" means the crime or alleged crime that caused a law enforcement agency or agent to analyze or request a DNA sample from a victim of a witness to that crime or alleged crime.

b) An "agent" of a law enforcement agency includes any person or entity that the agency provides with access to a DNA sample collected directly from the person of a victim of or a witness to a crime or alleged crime, or to any profile developed from those samples. This includes, but it is not limited to, public or private DNA testing facilities.

c) A "victim" or "witness" does not include any person who is a target of the investigation of the incident being investigated, if law enforcement agents

have probable cause to believe that person has committed a public offense relating to the incident under investigation.

d) A sample is "voluntarily provided for the purpose of exclusion" if law enforcement agents do not consider the individual to be a suspect and have requested a voluntary DNA sample in order to exclude the person's DNA profile from consideration in the current investigations.

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

According to the Assembly Appropriations Committee, costs (General Fund (GF)) of $1.3 million in fiscal year (FY) 2022-23, approximately $2 million in FY 2023-24, and $1.7 million annually thereafter to the Department of Justice (DOJ) in additional staff and resources to process and return DNA samples. According to the DOJ, the Division of Law Enforcement and Bureau of Forensic Services (BFS) anticipates having to process and return approximately 53,333 DNA extracts to local law enforcement agencies. The estimate of 53,333 is based on 40,000 unique DNA cases in BFS's case management system, of which one-third includes two reference samples. In addition to the existing cases, BFS anticipates processing 5,733 DNA extracts annually. This is based on the average DNA cases per year of 4,300, and one-third having two reference samples. In addition to the existing cases, BFS anticipates processing 5,733 DNA extracts annually. This is based on the average DNA cases per year of 4,300, and one-third having two reference samples.

SUPPORT: (Verified 8/23/22)

Office of San Francisco District Attorney (source)
ACLU California Action
California Attorneys for Criminal Justice
California Public Defenders Association
Center on Juvenile and Criminal Justice
Ella Baker Center for Human Rights
Leda Health
Oakland Privacy
Prosecutors Alliance California
San Francisco Democratic Party
San Francisco Women's Political Committee
Secure Justice

OPPOSITION: (Verified 8/23/22)

California Statewide Law Enforcement Association

ARGUMENTS IN SUPPORT: In support of this bill ACLU California Action states:

> DNA evidence has become a powerful tool in investigating and prosecuting crimes, particularly sexual assault. As part of the evidence collection process, a sexual assault survivor is asked to submit a DNA reference sample to identify and distinguish their DNA from the DNA of the individual who committed the sexual assault. Family members and intimate partners of the sexual assault survivor may also be asked to submit DNA reference samples for the same purpose. Federal law prohibits victims' DNA from inclusion in the national Combined DNA Index System (CODIS) and the National DNA Index System (NDIS), and state law similarly prohibits inclusion of these profiles in the state DNA database (Cal-DNA). But there is no corresponding state law that prohibits local law enforcement from creating their own DNA databases or regulating whose DNA profiles are placed in these local law enforcement databases.
>
> In February of this year, the San Francisco District Attorney's office discovered that the San Francisco Police Department had placed DNA profiles collected from sexual assault victims into their local DNA database and that police personnel were searching these profiles in order to identify possible suspects in unrelated criminal investigations. The sexual assault survivors – including children – who voluntarily provided their DNA samples as part of the investigation into the assault they experienced were not informed and did not consent to this use of their DNA profiles.
>
> This practice is morally wrong and violates the rights of sexual assault survivors as protected by the Fourth Amendment of the US Constitution and the right to privacy contained in the California Constitution. This practice will deter victims from reporting sexual assault and from cooperating with the very uncomfortable and invasive process of collecting physical evidence in these cases, hindering efforts to combat sexual violence.
>
> SB 1228 will help protect victims' genetic privacy by requiring that their DNA samples be used only for purposes directly related to the incident being investigated.

ARGUMENTS IN OPPOSITION: The California Statewide Law Enforcement Association opposes this bill stating:

> While we certainly understand the author's intention to protect individuals' privacy, we believe that limiting what DNA samples members of law enforcement are permitted to run through their databases would prove damaging to investigations. Many perpetrators of the most heinous crimes are discovered by running their DNA through cold case computers and DNA indexes. It is crucial that members of law enforcement have ample information at their disposal as they conduct investigations and protect the community.

ASSEMBLY FLOOR: 69-1, 8/24/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Waldron
NO VOTE RECORDED: Bigelow, Cooper, Gallagher, Gray, Irwin, Kiley, Muratsuchi, Ramos, Rodriguez, Voepel

Prepared by: Mary Kennedy / PUB. S. /
8/24/22 19:23:16

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

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UNFINISHED BUSINESS

Bill No: SB 1242
Author: Committee on Insurance
Amended: 6/15/22
Vote: 21

SENATE INSURANCE COMMITTEE: 9-0, 3/31/22
AYES: Rubio, Jones, Archuleta, Bates, Dodd, Hueso, Hurtado, Portantino, Roth
NO VOTE RECORDED: Borgeas, Glazer, Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 39-0, 4/21/22 (Consent)
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NO VOTE RECORDED: Wilk

ASSEMBLY FLOOR: 73-0, 8/18/22 (Consent) - See last page for vote

SUBJECT: Insurance

SOURCE: California Department of Insurance

DIGEST: This bill is the Senate Insurance Committee's biannual omnibus bill, which includes several changes that are non-controversial, technical, or otherwise classified as code cleanup.

Assembly Amendments add bail bonds to the list of products that require the consumer be provided information on how to contact the California Department of Insurance's (CDI) consumer affairs unit, eliminate unnecessary language regarding the implementation of the Equal Insurance HIV Act, add a requirement for insurance licensees to include their license numbers on emails they send, add courses on insurance fraud and ethics to the training broker-agents must complete,

as specified, revise long term care death benefit notices, as specified, and make changes to an insurance company's obligation to report fraud to the CDI.

ANALYSIS:

Existing law:

1) Regulates, generally, classes of insurance, including disability income insurance. Existing law defines "disability income insurance" to mean insurance against loss of occupational earning capacity arising from injury, sickness, or disablement.

2) Requires an insurance pool to furnish a copy of the pool's annual audited financial statement and most recent actuarial review to specified committees of the Legislature within 180 days of the close of the pool's fiscal year.

3) Provides that mailing a specified notice is complete when the notice is deposited in a facility regularly maintained by the United States Postal Service, in a sealed envelope, with postage paid, and addressed to the person at the last address that person provided to the person mailing the notice. The period of notice and any right or duty to respond to that mailed notice is extended by five calendar days if the place of mailing or the recipient's address is within California, 10 calendar days if the place of mailing or the recipient's address is outside of California but within the United States, or 20 calendar days if the place of mailing or the recipient's address is outside of the United States. These time periods and procedures are applicable to various insurance-related notices.

This bill:

1) Corrects and clarifies code section references, makes grammatical corrections, deletes duplicative code sections, and corrects unintentional drafting errors in prior legislation.

2) Provides that when a bail bond is first executed or delivered, the insurer must provide a specified written disclosure to the customer, which contains CDI's contact information for consumer complaints, as well as the address and customer service telephone number of the insurer or of the agent or broker of record, as specified.

3) Clarifies that, on or after January 1, 2023, a life or disability income insurer may not decline an application or an enrollment request for life or disability income insurance coverage based solely on a positive HIV test, as specified.

4) Requires insurance licensees to print their license numbers on e-mails the licensees send, which involve an activity for which a license is required, as specified.

5) Requires, effective March 1, 2023, the 12-hour ethics course that is required in connection with the pre-licensing education of specified new license applicants and the three-hour ethics course that is required as a condition of license renewal to each include one hour of study on insurance fraud.

6) Removes ambiguity regarding the regulation of credit insurance agents.

7) Requires any agent or broker who, prior to placing an insurance application with an insurance company, reasonably suspects or knows that a suspected fraudulent insurance application is being made, to submit details about that application to CDI's fraud division within 60 days after concluding the application is fraudulent, via the fraud division's consumer fraud reporting portal, as specified.

8) Requires any agent or broker who, after placing an insurance application with an insurance company, reasonably suspects that fraud has been perpetrated, to report that information directly to the insurance company's special investigative unit, as specified.

9) Relieves agents and brokers, who furnish information about suspected or known fraudulent applications, or who assist in investigations of suspected insurance fraud that are conducted by governmental agencies, from civil liability when acting in good faith, as specified.

10) Requires insurance companies, which have determined that an act of insurance fraud may have or might be occurring following the completion of a special investigative unit investigation, to notify CDI's fraud division within 60 days after making their fraud determination, on a form prescribed by CDI.

11) Updates the requirements of existing law related to background checks of applicants for insurance licenses by expressly referencing the California Department of Justice and more clearly listing each type of license whose applicant requires a background check.

12) Authorizes alternative procedures related to the issuance of benefit statements for an accelerated death benefit for long-term care.

13) Adds the Insurance Commissioner to the list of entities to which specified insurance pools must submit annual audited financial statements.

Background.

Consumer disclosure for bail. Existing law requires several different types of insurers to provide consumers with a disclosure containing CDI's contact information for consumer complaints, as well as the contact information for the underlying insurer and agent or broker of record. Bail is one of the only types of insurance regulated by CDI that is not subject to these consumer disclosure requirements. This bill requires specified consumer disclosures be provided when a bail bond is first executed or delivered.

Anti-fraud provisions. Several provisions, taken together, are intended to help insurance agents and brokers identify, and help CDI crack down against, insurance fraud. These include the addition of pre-licensing and pre license-renewal education about insurance fraud; an express requirement that agents and brokers who reasonably suspect or know a fraudulent application is being made to report that fact to CDI's fraud division (if the application has not yet been submitted to an insurance company) or to an insurer's special investigative unit (if the application has been submitted to the insurance company); a clarification that such reports do not subject the agent or broker to civil liability, as long as the agent or broker is acting in good faith; and a clarification that an insurer should complete its special investigative unit investigation into suspected fraud before reporting that fraud to CDI.

Require license numbers on emails. Existing law requires insurers to include their license numbers on their business cards, written price quotations for insurance products, and print advertisements distributed exlusively in this state for insurance products. This bill updates the Insurance Code by extending the license number requirement to e-mails.

*Deletion of language referencing receipt of commissions***.** Insurance Code Section 1758.9 prohibits any person from selling or soliciting any form of credit insurance in this state, and receiving a commission for their efforts, unless that person is licensed as an insurance agent or broker, as specified. CDI is concerned that the language of existing law could be interpreted as allowing someone without a license to sell or solicit credit insurance, as long as they do not receive a commission for doing so. By striking the language that references receipt of a commission, CDI is seeking to remove the potential ambiguity and clarify that no person may sell or solicit any form of credit insurance without a license.

Alternative procedures for the issuance of certain long-term care benefit statements. Existing law requires benefit statements for an accelerated death benefit for long-term care to be issued before a policy loan can be approved and 30

days before the first payment of an accelerated death benefit for long-term care. CDI seeks to add alternative procedures to permit, in certain circumstances, the statements to be issued at the same time as the first payment of an accelerated death benefit for long-term care and at the time of payment of a policy loan.

Add CDI to the list of entities that receive audited financial statements from affordable housing pools. Existing law requires insurance pools formed by certain affordable housing entities to submit their annual financial statements to specified committees of the Legislature. CDI is seeking to add itself to the list of entities that receive these statements, to better inform it regarding the financial stability of these entities.

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

According to the Assembly Appropriations Committee, this bill will result in, at most, minor and absorbable costs to the state.

SUPPORT: (Verified 8/19/22)

California Department of Insurance (source)
California Agents and Health Insurance Professionals
Independent Agents and Brokers of California
National Association of Insurance and Financial Advisors

OPPOSITION: (Verified 8/19/22)

None received

ARGUMENTS IN SUPPORT: The California Department of Insurance writes, "This proposal would add the Insurance Commissioner to the list of existing entities to receive annual financial statements and audits from specified RRPGs [Risk Retention Pool Groups] so that CDI can be informed upfront of when these RRPGs are created to offer coverage to affordable housing entities who may be having trouble obtaining traditional insurance for their projects."

ASSEMBLY FLOOR: 73-0, 8/18/22
AYES: Aguiar-Curry, Alvarez, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi,

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

NO VOTE RECORDED: Arambula, Cervantes, Chen, Choi, Flora, Smith, Wood

Prepared by: Brian Flemmer / INS. / (916) 651-4110
8/19/22 13:05:22

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

Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SB 1246
Author: Stern (D), et al.
Amended: 8/15/22
Vote: 27 - Urgency

SENATE GOVERNANCE & FIN. COMMITTEE: 4-0, 5/4/22
AYES: Caballero, Nielsen, Durazo, Wiener
NO VOTE RECORDED: Hertzberg

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/19/22
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SENATE FLOOR: 39-0, 5/25/22
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Hertzberg

ASSEMBLY FLOOR: 77-0, 8/22/22 - See last page for vote

SUBJECT: Income taxes: gross income exclusions: wildfires

SOURCE: Author

DIGEST: This bill excludes settlement payments from Personal Income and Corporation Tax in connection with the 2017 Thomas and 2018 Woolsey fires from taxable income.

Assembly Amendments clarify taxpayers eligible to claim a gross income exclusion, that the gross income exclusion is available for taxable years beginning before January 1, 2027, and modify the due date for Franchise Tax Board's report.

ANALYSIS: Existing law states that gross income includes all income from whatever source derived. This includes wages, alimony, interest and dividends. To the extent that any settlement payment exceeds costs incurred or paid in connection with the event that caused the settlement, that income may be taxable. Various income deductions and exclusions are allowed in current law and must be specifically provided for in statute.

This bill:

1) Excludes from gross income from the Personal Income and Corporation tax any amount received in settlement by a qualified taxpayer from Southern California Edison in settlement claims related to the 2017 Thomas fire and the 2018 Woolsey fire from gross income.

2) Allows this exclusion for all taxable years that begin before January 1, 2027.

3) Defines a "qualified taxpayer" as a taxpayer that meets any of the following criteria:

   a) Owned real property or resided in either the Counties of Ventura, Santa Barbara, or Los Angeles, and received a settlement payment in connection with either the 2017 Thomas or the 2018 Woolsey fire, and paid and incurred expense related to those fires.

   b) Resided in either the Counties of Ventura, Santa Barbara, or Los Angeles, and received a settlement payment in connection with either the 2017 Thomas or the 2018 Woolsey fire, and paid and incurred expense related to those fires.

   c) Had a place of business in either the Counties of Ventura, Santa Barbara, or Los Angeles, and received a settlement payment in connection with either the 2017 Thomas or the 2018Woolsey fire, and paid and incurred expense related to those fires.

4) Requires the qualified taxpayer to provide, documentation of the settlement payment received to the Franchise Tax Board (FTB) upon request.

5) Makes legislative findings and declarations to comply with Section 41 of the Revenue and Taxation Code.

Background

Thomas and Woolsey fires. The Thomas fire, which occurred in December 2017, burned a total of 281,893 acres, destroyed 1,063 structures, and resulted in two fatalities. The California Public Utilities Commission (CPUC) estimated the total property damage to be approximately $2.2 billion.

The Woosley fire, started in November 2018, burned a total of 96,949 acres of land, destroyed 1,643 structures, and caused three fatalities. The CPUC estimated the total damage to property to be approximately $6 billion.

Although the company has not admitted guilt, Southern California Edison agreed to more than a half-billion dollars in penalties as punishment for its equipment potentially contributing to starting five fires in 2017 and 2018, including the Thomas and Woolsey fires. Insurance companies, homeowners and fire victims sued Southern California Edison and through mediation, a final settlement was reached on December 22, 2021, and Southern California Edison agreed to pay $2.2 billion to fire victims.

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

According to the Assembly Appropriations Committee:

- General Fund revenue loss of approximately $11 million in fiscal year (FY) 2022-23, $7.6 million in FY 2023-24 and $4.4 million in FY 2024-25.

- Since this bill also provides a refund for overpayment of tax, payable from the continuously appropriated Tax Relief and Refund Account, this bill makes an appropriation.

- Costs of an unknown, but potentially minor and absorbable, amount to FTB to update existing informational materials and systems and provide the report.

SUPPORT: (Verified 8/22/22)

Consumer Attorneys of California
Howard Jarvis Taxpayers Association
Several individuals

OPPOSITION: (Verified 8/22/22)

None received

ARGUMENTS IN SUPPORT: According to the author, "Over the past 5 years the State has been devastated by a series of catastrophic wildfires, resulting in billions of dollars in damages, lives lost and the destruction of millions of acres of forests and woodlands. The worsening effect of climate change is resulting in the aridification of California, exacerbated by extreme weather events, and ongoing drought conditions making more areas of the State susceptible to wildfires. However, these conditions do not limit liability, or need for additional safety precautions from private parties with infrastructure that may spark a wildfire in these areas.

"In 2017 and 2018, large portions of Ventura and Santa Barbara Counties were devastated by both the Thomas Fire (2017) and the Woolsey Fire (2018). Both fires rank in the top 15 most destructive wildfires in California's history. Together, both fires burned almost 380,000 acres of land, destroyed almost 3000 structures, caused over $8 billion in damages, resulted in hundreds of thousands of people having to be evacuated and the death of 5 individuals. Investigations into the cause of both fires determined electric power-lines were responsible. Southern California Edison has been involved in litigation with the victims of both Fires, and has entered into settlement agreements with many of them.

"The financial relief provided to the victims of this widespread destruction has been a small solace in the wake of these disasters. However, under existing law, these settlements were subject to taxation which could amount to thousands of dollars out of the pockets of those hardest hit by this tragedy.

"SB 1246 would help ensure that settlement funds issued due to these wildfires are excluded from taxable income and would refund the taxes paid by individuals on these sums. This is a commonsense way to give fire victims access to the entirety of the relief they were granted. "

ASSEMBLY FLOOR: 77-0, 8/22/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca

Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Davies, Levine

Prepared by: Jessica Deitchman / GOV. & F. / (916) 651-4119
8/22/22 19:59:34

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

SENATE RULES COMMITTEE SB 1247
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SB 1247
Author: Hueso (D)
Amended: 6/29/22
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 10-0, 4/18/22
AYES: Roth, Archuleta, Becker, Dodd, Eggman, Hurtado, Leyva, Min, Newman, Pan
NO VOTE RECORDED: Melendez, Bates, Jones, Ochoa Bogh

SENATE FLOOR: 29-0, 5/24/22
AYES: Allen, Atkins, Becker, Bradford, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Archuleta, Bates, Borgeas, Caballero, Dahle, Grove, Hertzberg, Jones, Melendez, Nielsen, Ochoa Bogh

ASSEMBLY FLOOR: 67-0, 8/24/22 - See last page for vote

SUBJECT: Franchises

SOURCE: Author

DIGEST: This bill establishes new disclosure requirements for a franchisor to provide to California-based franchisees.

Assembly Amendments require franchisors to report specified information to California franchisees upon request and make it a violation of law for a franchisor to execute an agreement with a franchisee if certain information is not provided.

ANALYSIS:

Existing law:

1) Regulates various businesses to, among other things, preserve and regulate competition, prohibit unfair trade practices, and regulate advertising. (Business and Professions Code (BPC) § 16600 *et seq.*)

2) Establishes the California Franchise Relations Act (CFRA) which governs the renewal, termination, transfer, and all other conditions and provisions made pursuant to franchise agreements. (BPC § 20000 *et seq.*)

3) Defines a franchise as a contract or agreement, either expressed or implied, whether oral or written, between two or more persons by which:

   a) A franchisee is granted the right to offer, sell or distribute goods or services under the plan or system of the franchisor;

   b) Operation of the business is substantially associated with franchisor's trademark, advertising or other symbol; and,

   c) A franchise fee, as defined, is paid by the franchisee.
   (Business & Professions Code (BPC) § 20001 (a), (b) and (c))

4) Establishes the California Franchise Investment Law (CFIL) which governs financial disclosures and registration requirements with the Department of Business Oversight. (Corporations Code (CORP) § 31000 *et seq.*)

This bill:

1) Requires a franchisor and its affiliated companies, within 120 days of the end of the franchisor's fiscal accounting year, to report to its California franchisees, upon a franchisee's request, any money, goods, services, things of value, or entities with whom the franchisee does business on account of the franchise.

2) Requires the reported data to be detailed by each entity that provides the benefit.

3) Makes it a violation of the Franchise Investment Law for a franchisor to execute an agreement that requires the assignment or waiver of a franchisee's right to rebates, promotions, allowances, or other monetary incentives for the sale of a

product within the state unless the agreement states the potential or current gross value of that right.

4) Requires the franchisor, if the actual gross value of the assigned or waived right is unknown, to include a reasonable estimate of the value based on the average value for similarly situated franchises.

5) Provides that the violation of the Franchise Investment Law created under this bill does not constitute a crime.

Background

Franchise businesses represent a large and growing segment of the nation's businesses and remain a popular and potentially lucrative way for people to open their own business. Just like any other small business owner, franchisees invest a large amount of their own money in the business and continue to pay for upgrades and changes in response to the market. Also like independent business owners, they often work long days and nights handling operations, managing employees and overseeing expenses. Owning a franchise over an independent business comes with advantages like name brand recognition and the support of the corporation.

The California Franchise Investment Law (CFIL) was enacted in 1970 to regulate franchise investment opportunities in order to protect California investors from potentially fraudulent franchise investments. CFIL generally requires franchisors to disclose to prospective franchisees the information necessary to make an informed decision about franchise offers, and prohibits the sale of franchises that would lead to fraud or the likelihood that a franchisor's promises would not be fulfilled. CFIL contains explicit provisions for enforcement generally through damages (payment for economic losses) and rescission (cancellation of the contract). It also provides for injunctive relief (to require or prohibit a specific action), and reasonable costs and attorneys' fees in certain circumstances.

The California Franchise Relations Act (CFRA) (which excludes petroleum-related franchises, like gas stations) was enacted in 1980 to govern relationships between franchisors and franchisees after they have entered into contract with each other. CFRA is designed to prevent unfair practices in the transfer, renewal, or termination of a franchise. CFRA prohibits termination of a franchise agreement except for good cause and only after notice and an opportunity to fix the problem. It also lays out certain circumstances where immediate termination is permitted, for example: bankruptcy, abandonment, mutual agreement, material misrepresentation, illegal activity, noncompliance with the franchise agreement,

failure to pay franchise fees, and imminent danger to the public. CFRA prohibits nonrenewal of a franchise agreement without 180 days prior notice, and with certain additional protections for the franchisee. It also provides for the transfer of ownership to surviving spouses or heirs. CFRA does not contain explicit provisions to compensate a franchisee for the nonrenewal or termination of a franchise, except for the buyback of inventory when a franchise is improperly terminated or not renewed, although general contract remedies may still be available.

The franchise agreement contract is the central authority for the relationship between the franchisor and franchisee, which can be hundreds of pages long and contains a highly detailed description of the rights, responsibilities and remedies of the parties. The franchisee must sign the contract promising to comply with all of the requirements and the franchisor's service and marketing directives now and in the future. According to the International Franchise Association, a "franchise is the agreement or license between two legally independent parties which gives a person or group of people (the franchisee) the right to market a product or service using the trademark or trade name of another business (the franchisor)." It also gives the franchisee the right to market a product or service using the operating methods of the franchisor and the obligation to pay the franchisor fees for those rights. The franchisor has the obligation to provide those rights and support the franchisee according to their agreement. More specifically, franchisees serve to provide the look, name recognition, and brand of the business. The franchisee builds the brand locally and develops good will within the community. The franchisee's business success helps support the community with taxes and other contributions as well as improves the bottom line for franchisors.

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

According to the Assembly Appropriations Committee, this bill will result in estimated ongoing General Fund costs to the Department of Financial Protection and Innovation of $250,000 to $500,000 annually for one to two attorney positions to oversee and ensure compliance with the new disclosure requirements.

SUPPORT: (Verified 8/24/22)

American Association of Franchisees & Dealers
Asian American Hotel Owners Association

OPPOSITION: (Verified 8/24/22)

None received

ARGUMENTS IN SUPPORT: Supporters state that this bill will specifically require franchise companies to annually report the rebates and other benefits vendors provide to the franchisors based on franchisee purchases. Supporters state that "These rebates, or kickbacks, have become greater over the years, and instead of enjoying the promised benefits of group purchasing power, franchisees are often required to purchase goods and services from limited suppliers at higher costs. Having these rebates reported annually will give transparency to what franchisees are really paying for, which squeezes our margins, contributes to lower pay for our employees, and ultimately costs the consumer."

ASSEMBLY FLOOR: 67-0, 8/24/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Choi, Cooley, Cooper, Cunningham, Daly, Davies, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Chen, Megan Dahle, Flora, Fong, Gallagher, Gray, Irwin, Kiley, Lackey, Patterson, Smith, Voepel

Prepared by: Sarah Mason / B., P. & E.D. /
8/24/22 19:23:25

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

SENATE RULES COMMITTEE SB 1252
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SB 1252
Author: Committee on Housing
Amended: 6/14/22
Vote: 21

SENATE HOUSING COMMITTEE: 9-0, 4/27/22
AYES: Wiener, Bates, Caballero, Cortese, McGuire, Ochoa Bogh, Skinner, Umberg, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

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

ASSEMBLY FLOOR: 76-0, 8/11/22 (Consent) - See last page for vote

SUBJECT: Housing

SOURCE: Author

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

Assembly Amendments add three new provisions concerning the local housing trust fund match program, the Serna farmworker housing grant program, and fix a cross reference.

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

1) *Fix Requirements related to low/moderate income housing:*

   The 2021 Housing Omnibus bill amendment (AB 1584, Chapter 360, Statutes of 2021) included a proposal that sought to return families displaced by redevelopment back to San Francisco. The proposal, however, could be inadvertently interpreted to require that units rented to descendants must include descendants that do not qualify for the development. The proposed clarification would require any descendant applying for a unit to meet the eligibility requirements of the funding source. In order to avoid an inadvertent conflict with existing law governing the same subject matter, existing Health & Safety Code (HSC) section 33411.3 also should be amended with the same language. [Public Interest Law Project]

2) *Changing outdated reference of "limited housing cooperative":*

   The HSC 50076.5 definition of "limited equity housing cooperative" has two outdated references that need to be corrected. [HCD Services] (Section 3)

3) *Housing Crisis Act of 2019 cleanup: correction of the definition of affordable housing projects:*

   The Housing Crisis Act of 2019 granted affordable housing projects an additional year to commence construction before a preliminary application's vesting expires, but failed to use the common definition of affordable housing project that specifies 55 year affordability covenants for rental housing and 45 year covenants for owner-occupied housing. The proposed bill inserts the correct definition: at least 55 years for rental housing and 45 years for owner-occupied housing. [Senator Skinner]

4) *Fixing Cross Reference*

   Section 4041(b)(1) of the Civil Code only cross references Section 5300 when it should also include a cross reference to Section 5310, because this is the section that contains the requirements for communications from the Association and the member's rights to receive individual notice. [KCS Sacramento]

5) *Serna Farmworker Housing Grant Program*

Clarify that loan terms (deferred loans, interest, 0.42% payment for monitoring) are consistent with MHP (multifamily) or CalHome (Homeownership), as applicable. Clean-up to changes made by AB 434 to make Serna consistent with the AB 434 changes to Transit Oriented Development and Veterans Housing and Homelessness Prevention Program. [Senate Housing Committee]

6) *Changes to the statute for the local housing trust fund match program*

Existing statute requires that 30% of program funds be expended in assisting extremely low income households. The issue is that calculating the percentage of program funds expended by AMI is challenging for both grantees and for Department staff. We are requesting that the 30% expenditure requirement be for units in a project rather than AMI as it is much easier to both plan for and verify that a certain percentage of units are created in each AMI bracket. [Senate Housing Committee]

Background

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

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

Comments

Purpose of the bill. The purpose of omnibus bills is to include technical and non-controversial changes to various committee-related statutes into one bill. This

allows the legislature to make multiple, minor changes to statutes in one bill in a cost-effective manner. If there is no consensus on a particular item, it cannot be included. There is no known opposition to any item in this bill.

Related/Prior Legislation

SB 1030 (Senate Committee on Housing, Chapter 165, Statues of 2020) made non-controversial changes to sections of law relating to housing.

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

According to the Assembly Appropriations Committee:

- HCD anticipates minor and absorbable costs.
- State-mandated local costs, unknown but likely minor, to redevelopment agencies' housing successor agencies to determine if a descendant of a person displaced by a redevelopment project meets income eligibility and other requirements necessary to be given priority to rent or purchase low- or moderate-income housing units developed by the agency per current law. These costs are potentially reimbursable by the state, subject to a determination by the Commission on State Mandates.

SUPPORT: (Verified 8/11/22)

None received

OPPOSITION: (Verified 8/11/22)

Catalysts for Local Control
Hills2000 – Friends of the Hills
Mission Street Neighbors
Santa Monica Residents Cross-City
4 Individuals

ARGUMENTS IN SUPPORT: The Senate Housing Committee is authoring this bill as a means of combining multiple, non-controversial changes to statutes into one bill so that the Legislature can make minor amendments in a cost-effective manner.

ARGUMENTS IN OPPOSITION: The opponents are opposed to existing statutes and, therefore, oppose amending those existing statutes.

ASSEMBLY FLOOR: 76-0, 8/11/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bloom, Quirk-Silva, Voepel, Wilson

Prepared by: Andrew Dawson / HOUSING / (916) 651-4124
8/12/22 16:57:23

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

SENATE RULES COMMITTEE SB 1255
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SB 1255
Author: Portantino (D), et al.
Amended: 8/18/22
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 6-0, 3/28/22
AYES: Allen, Bates, Gonzalez, Skinner, Stern, Wieckowski
NO VOTE RECORDED: Dahle

SENATE EDUCATION COMMITTEE: 6-0, 4/27/22
AYES: Leyva, Ochoa Bogh, Cortese, Glazer, McGuire, Pan
NO VOTE RECORDED: Dahle

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/19/22
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SENATE FLOOR: 39-0, 5/25/22
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Hertzberg

ASSEMBLY FLOOR: 77-0, 8/22/22 - See last page for vote

SUBJECT: Single-use products waste reduction: Dishwasher Grant Program for Waste Reduction in K–12 Schools

SOURCE: Glendale Environmental Coalition

DIGEST: This bill establishes the Dishwasher Grant Program for Waste Reduction in K–12 Schools, to be administered by the California Department of

Education (CDE), to provide grants to school districts and charter schools, for the purchase and installation of commercial dishwashers at schoolsites.

Assembly Amendments delete Community Colleges from the provisions of the bill.

ANALYSIS:

Existing law:

1) Establishes, under the Integrated Waste Management Act of 1989 (IWMA), a state recycling goal of 75% of solid waste generated to be diverted from landfill disposal through source reduction, recycling, and composting. Requires each state agency and each large state facility to divert at least 50% of all solid waste through source reduction, recycling, and composting activities. IWMA also requires a state agency and large stage facility, for each office building of the state agency or large state facility, to provide adequate receptacles, signage, education, and staffing, and arrange for recycling services, as specified. (PRC §§ 41780.01, 42921, 42924.5)

2) Requires CalRecycle to develop and implement a source reduction and recycling program for school districts that includes, among other things, the development of a model waste reduction and recycling program for school districts and schools. (PRC §42621)

3) Requires the California Energy Commission (CEC), in collaboration with each utility, to develop and administer the School Noncompliant Plumbing Fixture and Appliance Program to provide grants to state agencies and local educational agencies to replace noncompliant plumbing fixtures and appliances that fail to meet water efficiency standards with water-conserving plumbing fixtures and appliances. (Public Utilities Code §1631)

This bill:

1) Establishes the Dishwasher Grant Program for Waste Reduction in K–12 Schools, to be administered by the CDE, to provide incentive grants to public K–12 schools to enable them to transition to less costly and more environmentally healthy reusable food service ware.

2) Defines "Commercial dishwasher" to mean a nonresidential dishwasher that meets the Energy Star Product Specification criteria for Commercial Dishwashers, Version 2.0, or any revision to those criteria published by the United States Environmental Protection Agency that is adopted or established by the State Energy Resources Conservation and Development Commission.

3) Establishes program grants of up to $40,000 per kitchen of a school.

4) Requires grant recipients, as a condition of the receipt of grant funding, to agree to use grant funds on specified expenditures, including the purchase of a dishwasher and training for staff.

5) Authorizes the CDE to conduct an onsite inspection at any school for which a grant was awarded and requires the district to provide any documents and information requested by the CDE related to the grant. Requires the CDE to develop administrative procedures and guidelines for the program.

6) States that the adoption of procedures and program guidelines for the awarding of grants pursuant to the measure is not the adoption of a regulation and is exempt from the requirements of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

7) Limits eligibility for grants to the following:

   a) A school district applying on behalf of one or more schools in its jurisdiction that maintains kindergarten, or any of grades 1 to 12, inclusive; and

   b) A charter school applying on behalf of one or more schools under its charter that maintains kindergarten or any of grades 1 to 12, inclusive.

8) Requires, in implementing this bill, the CDE to maintain specified information on its website and to inform eligible entities of the program.

9) Makes implementation contingent on an appropriation being made for its purposes by the Legislature in the annual Budget Act or another statute.

Background

1) *School Waste Reduction Programs*. Schools are vital hubs to their local communities and are uniquely positioned to teach students waste reduction behaviors. Students can learn waste reduction at schools and bring that messaging home to their families, caregivers, and all those with whom they come in contact.

   Schools and universities generate about 562,442 tons of waste each year in California. Almost half of school waste is comprised of organic materials like paper, cardboard, and uneaten cafeteria food. Much of the waste generated in the California education system is recyclable. Many school districts have been

successful in improving their economic and environmental performance through the implementation of waste reduction initiatives.

2) *California Solid Waste and Recycling Laws Affecting Schools and Local Education Agencies*. Many individuals monitor school waste, including school district administrators concerned about increases in solid waste disposal costs, recycling-conscious teachers and students, city/county recycling coordinators working with a local school district. In most cases, school recycling is a state requirement. Setting up or improving an existing school waste reduction program can reduce costs and litter, improve the environment, and combat climate change.

   CalRecycle offers resources to help schools and school districts meet recycling requirements. The following is a partial list of solid waste and recycling laws affecting schools and local education agencies:

   a) The Mandatory Commercial Recycling law (AB 341, Chesbro, Chapter 476, Statutes of 2011) went into effect in June 2012 and requires public entities that generate a certain threshold of solid waste per week to reuse, recycle, compost, or otherwise divert solid waste from disposal.

   b) Mandatory Organic Recycling (AB 1826, Chesbro, Chapter 727, Statutes of 2014) requires regulated entities to implement an organic waste recycling program to divert food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste.

   c) Short-Lived Climate Pollutants: Organic Waste Methane Emissions Reduction (SB 1383, Lara, 2016) requires schools and local education agencies to prevent, reduce the generation of, and recycle organic waste. Additionally, effective on January 1, 2024, schools and local education agencies with an on-site food facility will be required to recover edible food.

   Other related school recycling and sustainability laws require CalRecycle to provide assistance to school districts in establishing and implementing source reduction and recycling programs. Additionally, California Education Code encourages each school district to establish and maintain a paper recycling program in all classrooms, administrative offices, and other areas owned or leased by the school district.

3) *California Schools Healthy Air, Plumbing, and Efficiency (CalSHAPE) Program*. AB 841 (Ting, Chapter 372, Statutes of 2020) established the School

Energy Efficiency Stimulus Program (CalSHAPE), administered by the CEC. The CalSHAPE Program includes two, ratepayer-funded, grant programs for local educational agencies (LEAs), the CalSHAPE Ventilation Program and CalSHAPE Plumbing Program. The CalSHAPE Plumbing Program provides funding to LEAs to replace aging and water-inefficient plumbing fixtures and appliances with water-conserving plumbing fixtures and appliances. The noncompliant appliances eligible for replacement are commercial dishwashers, automatic commercial ice makers, and commercial clothes washers that do not meet ENERGY STAR® Product Specifications.

The CalSHAPE Plumbing Program guidelines were adopted by the CEC in June 2021 and the online system opened for user registration shortly after.

The CEC received 127 applications (including 31 commercial dishwasher requests) in the first round of funding for the Program, totaling $18,573,635 in grant funding, and issued 43 notices of proposed award. Per Program requirements for the first funding round, schools in underserved communities were given priority.

4) *Most Schools Ineligible for CalSHAPE Program Grants*. Although the CalSHAPE Program has received considerable interest from LEAs, the Plumbing Program has not received as many applications as the Ventilation Program. Specifically, only 34 percent of the Plumbing Program funding available in Funding Round One was requested in applications compared to 92 percent of the Ventilation Program funding. CEC staff conducted outreach to LEAs on the Plumbing Program to gather information on reasons that there appears to be less interest in the program.

   AB 841 has specific requirements that a plumbing fixture or appliance must meet to be considered noncompliant and be eligible for replacement in the CalSHAPE Plumbing Program. Of the feedback provided by applicants, one of the most common was that there is no longer a lot of plumbing fixtures and appliances that meet the requirements to be considered as noncompliant in schools. As such, there are not many fixtures and appliances that qualify for replacement with CalSHAPE Program grant funding.

Comments

Purpose of this bill. According to the author, "California is meant to be a leader in sustainability, yet we are facing a single-use waste crisis that is being exacerbated by our K-12 school cafeterias. A tremendous amount of waste is generated from single-use foodware such as trays, plates, and utensils. However, we currently have

no program dedicated to stemming these waste streams, which are harming our environment and posing substantial costs to our schools. Both plastic and compostable recycling have proven inadequate and ineffective, and the cost of managing waste is rising.

"Industrial dish machines present an upstream waste prevention measure by avoiding single-use items and allowing the transition to safe, reusable foodware. Current machines use very little water and complete a cycle in only a few minutes. However, the upfront cost creates a barrier to implementation. Schools operating on very limited budgets and with competing needs may remain with single-use serviceware simply due to the cost of upfront investment. SB 1255 will result in less waste and reduced hauling costs, alleviating these burdens on schools. Instead of contributing to the waste crisis facing California, providing funding for industrial dishwashers will help reduce waste while instilling the values of environmental stewardship in our students."

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

According to the Assembly Appropriations Committee:

- Undefined Proposition 98 General Fund costs, contingent upon appropriation, for the grant program. The state has over 10,000 schools and 116 community colleges. If the program provided grants to 5% of schools and colleges in the amount of $40,000 each, costs would be $20 million.

- Ongoing General Fund costs of $440,000 for two staff at CDE to administer the program.

SUPPORT: (Verified 8/22/22)

Glendale Environmental Coalition (source)
301 Organics
350 Humboldt: Grass Roots Climate Action
350 Silicon Valley
350 Ventura County Climate Hub
7th Generation Advisors
Active San Gabriel Valley
Burbank Eco Council
California Product Stewardship Council
California School Employees Association
Californians Against Waste
Center for Environmental Health

City and County of San Francisco
City of Alameda
City of Glendale
City of Los Angeles
Climate Reality Project, Los Angeles Chapter
Climate Reality Project, San Fernando Valley
Green Lunchroom
Habits of Waste
Heal the Bay
North County Climate Change Alliance
Northern California Recycling Association
Oak Crest Institute of Science
Plastic Oceans International
Plastic Pollution Coalition
Plasticfreerestaurants.org
RecycleSmart
Save Our Shores
Sea Hugger
Seventh Generation Advisors
Sierra Club
StopWaste
Surfrider Foundation
The 5 Gyres Institute
The Center for Oceanic Awareness, Research, and Education
Upstream
Wishtoyo Chumash Foundation
Zero Waste USA

OPPOSITION: (Verified 8/22/22)

None received

ASSEMBLY FLOOR: 77-0, 8/22/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris,

Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Davies, Levine

Prepared by: Gabrielle Meindl / E.Q. / (916) 651-4108
8/22/22 19:59:35

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

SENATE RULES COMMITTEE SB 1271
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SB 1271
Author: Wilk (R), et al.
Amended: 8/15/22
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 12-0, 4/26/22
AYES: Dodd, Allen, Archuleta, Becker, Borgeas, Bradford, Glazer, Jones, Kamlager, Melendez, Portantino, Rubio
NO VOTE RECORDED: Nielsen, Hueso, Wilk

SENATE APPROPRIATIONS COMMITTEE: 6-0, 5/19/22
AYES: Portantino, Bates, Jones, Kamlager, Laird, Wieckowski
NO VOTE RECORDED: Bradford

SENATE FLOOR: 38-0, 5/26/22
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Hertzberg, Jones

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

SUBJECT: Contracts for the acquisition of goods or services: extension or renewal: legislative oversight

SOURCE: Author

DIGEST: This bill requires a state agency, for contract awarded without competitive bidding for the acquisition of goods or services in the amount of $75 million or more, entered into on or after January 1, 2023, to submit information regarding the terms and conditions of a proposed extension or renewal of the contract to the Joint Legislative Budget Committee (JLBC).

Assembly Amendments change the deadline by which a state agency is required to submit information regarding the terms and conditions of a proposed extension from at least 30 days before the contract date to on or before the contract end date.

ANALYSIS:

Existing law:

1) Requires, generally, state agencies, for non-information technology (IT) goods and services contracts, to secure at least three competitive bids or proposals for each contract. Three competitive bids or proposals are not required in, among other cases, the following:

    a) In cases of emergency where a contract is necessary for the immediate preservation of the public health, welfare, or safety, or protection of state property.

    b) When the state agency awarding the contract has solicited all potential contractors but has received less than three bids or proposals.

    c) When the state agency and the Department of General Services (DGS) agree that an article of a specified brand or trade name is the only article that will properly meet the needs of the state agency.

2) Requires DGS to prescribe the conditions under which a contract may be awarded without competition, and the methods and criteria which shall be used in determining the reasonableness of contract costs when a contract is awarded without competition.

This bill requires a state agency, for contract awarded without competitive bidding for the acquisition of goods or services in the amount of $75 million or more, entered into on or after January 1, 2023, to submit information regarding the terms and conditions of a proposed extension or renewal of the contract to JLBC.

Comments

Purpose of the Bill. According to the author's office, "SB 1271 increases transparency and accountability of costly no-bid contracts entered in by state agencies to ensure that taxpayer dollars are being spend most effectively and efficiently."

No-Bid Contracts. Generally, state agencies for non-IT goods and services are required to secure at least three competitive bids or proposals for each contract.

However, current law provides for a number of exceptions to this requirement. For instance, the requirement is waived in cases of emergency where a contract is necessary for the immediate preservation of the public health, welfare, safety, or protection of state property. This exception exists to allow the state to quickly respond to an emergency and obtain the necessary goods or services as quickly as possible without having to wait for three bids to be secured.

Current law also exempts from these requirements instances where state agencies have gone through the bidding process and less than three bids or proposals have been secured. This exception obviously exists to ensure that the state is not prohibited from awarding a contract simply because there were not at least three bids or proposals secured.

Finally, while other exceptions exist, one of the more commonly used exceptions is the "sole-source" exception which essentially authorizes state agencies to not abide by the three-bid requirement in those cases where the state agency and DGS agree that the contract can only be fulfilled by one single entity.

Related/Prior Legislation

SB 1367 (Wilk, 2022) would have prohibited a state agency from awarding a contract for which the state has not secured at least three competitive bids or proposals to a company that has made a behested payment, at the behest of the Governor, in the preceding 12 months. (Failed Passage in the Senate Governmental Organization Committee)

SCA 7 (Wilk, 2022) would have subjected the approval of renewal of a no-bid contract by a state agency for the acquisition of goods or services pursuant to law governing public contracts, in the amount of $25 million or more, entered into on or after January 1, 2023, to the oversight of the Joint Legislative Budget Committee, as prescribed. (Never Heard in the Senate Governmental Organization Committee)

AB 2385 (Kiley, 2022) would have prohibited a contract entered into pursuant to the California Emergency Services Act from containing an automatic renewal clause except if, by the terms of the contract, the clause is operative only upon the Legislature's approval, by concurrent resolution or statute, of the renewal of the contract. (Never Heard in the Assembly Emergency Management Committee)

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

According to the Assembly Appropriations Committee, likely minor and absorbable costs to state agencies to prepare contract renewal information to JLBC, since this bill does not detail the scope of information required.

SUPPORT: (Verified 8/22/22)

California Clean Money Campaign
Howard Jarvis Taxpayers Association

OPPOSITION: (Verified 8/22/22)

None received

ARGUMENTS IN SUPPORT: According to the Howard Jarvis Taxpayers Association, "this bill would allow legislators to review the performance of the firms awarded the no-bid contracts prior to their renewal to determine whether taxpayer dollars are being spend most effectively and efficiently. While no-bid state contracts should never become the norm in California, when there are deemed necessary, the Legislature must have oversight tools to prevent waste, fraud and abuse of taxpayers dollars."

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

Prepared by: Brian Duke / G.O. / (916) 651-1530
8/22/22 19:59:37

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

Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SB 1279
Author: Ochoa Bogh (R)
Amended: 8/15/22
Vote: 21

SENATE JUDICIARY COMMITTEE: 10-0, 5/3/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wiener
NO VOTE RECORDED: Wieckowski

SENATE FLOOR: 39-0, 5/25/22
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Hertzberg

ASSEMBLY FLOOR: 77-0, 8/22/22 - See last page for vote

SUBJECT: Guardian ad litem appointment

SOURCE: California Lawyers Association, Executive Committee of the Trusts and Estates Section

DIGEST: This bill modifies the definition of a person who lacks legal capacity to make decisions, for purposes of when the court should appoint a guardian ad litem in a civil case; requires, when a party in a civil case already has a guardian or conservator of the estate, that an application to have a guardian ad litem appointed for that party satisfy specified requirements; and requires a proposed guardian ad litem to disclose any known or actual conflicts of interests in advance of the appointment.

Assembly Amendments add requirements for appointing a guardian ad litem for a party who already has a guardian or conservator; remove provisions relating to the

compensation of a guardian ad litem, the requirement that a guardian ad litem file annual reports with the court, and specifications relating to the scope of a guardian ad litem's authority; remove the definition of "a person who lacks legal capacity to make decisions in the action" from Probate Code section 1003; add provisions relating to the disclosure of conflicts of interest for a guardian ad litem under Probate Code section 1003; and remove provisions relating to when a guardian ad litem is appointed for a minor, in response to stakeholder concerns.

ANALYSIS:

Existing law:

1) Provides that when a minor, a person who lacks legal capacity to make decisions, or a person for whom a conservator has been appointed is a party in a civil action, that person shall appear through a guardian or conservator of the estate, or by a guardian ad litem appointed by the court in which the action or proceeding is pending, or by a judge thereof, in each case. (Code Civ. Proc., § 372(a)(1).)

2) Provides that a guardian ad litem may be appointed in any case when it is deemed by the court in which the action or proceeding is prosecuted, or by a judge thereof, expedient to appoint a guardian ad litem to represent the minor, person lacking legal capacity to make decisions, or person for whom a conservator has been appointed, notwithstanding that the person may have a guardian or conservator of the estate and may have appeared by the guardian or conservator of the estate. (Code Civ. Proc., § 372(a)(1).)

3) Provides that the guardian ad litem appearing for any minor, person who lacks legal capacity to make decisions, or person for whom a conservator has been appointed shall have power, with the approval of the court in which the action or proceeding is pending, to compromise the same, to agree to the order or judgment to be entered therein for or against the ward or conservatee, and to satisfy any judgment or order in favor of the ward or conservatee or release or discharge any claim of the ward or conservatee pursuant to that compromise. (Code Civ. Proc., § 372(a)(1).)

4) Does not define, for purposes of a guardian ad litem, "a person lacking legal consequence to make decisions," but includes in the term "a person for whom a conservator may be appointed." (Code Civ. Proc., § 372(a)(2).)

5) Provides specific exceptions to the requirement that a minor who appears through a guardian ad litem. (Code Civ. Proc., §§ 372(b), (c); 373.)

6) Provides that, in an action under the Probate Code, the court may, on its own motion or at the request of a personal representative, guardian, trustee, or other interested person, appoint a guardian ad litem at any stage of the proceeding to represent the interest of any of the following persons, if the court determines that the representation of that person's interest would otherwise be inadequate:

   a) A minor.

   b) An incapacitated person.

   c) An unborn person.

   d) An unascertained person.

   e) A person whose identity or address is unknown.

   f) A designated class of persons who are not ascertained or are not in being. (Prob. Code, § 1003(a).)

7) Provides that, if not precluded by a conflict of interest, a guardian ad litem may be appointed to represent several persons or interests under 6). (Prob. Code, § 1003(b).)

8) Provides that the reasonable expenses of a guardian ad litem appointed under 6), including compensation and attorney fees, shall be determined by the court and paid as the court orders, either out of the property of the estate involved, by the petitioner, or from such other source as the court orders. (Prob. Code, § 1003(c).)

This bill:

1) Provides that, if an application is made for the appointment of a guardian ad litem for a person in a civil case who is a minor, who lacks legal capacity to make decisions, or for whom a conservator has been appointed, and that person already has a guardian or conservator of the estate, the application may be granted only if all of the following occur:

   a) The applicant gives notice and a copy of the application to the guardian or conservator of the estate upon filing the application.

   b) The application discloses the existence of the guardian or conservator of the estate.

c) The application sets forth the reasons why the guardian or conservator of the estate is inadequate to represent the interests of the proposed ward in the action.

2) Defines "a purposes who lacks legal capacity to make decisions" for purposes of the appointment of a guardian ad litem in a civil case to include all of the following:

   a) A person who lacks capacity to understand the nature or consequences of the action or proceeding; or

   b) A person who lacks capacity to assist the person's attorney in the preparation of the case.

   c) A person for whom a conservator may be appointed pursuant to section 1801 of the Probate Code.

3) Deletes an obsolete requirement that the Judicial Court adopt certain forms by July 1, 1999.

4) Provides that, before a guardian ad litem is appointed in a civil case, the proposed guardian ad litem must disclose to the court and all parties any known potential or actual conflicts of interest arising from appointment in and any familial or affiliate relationship of the guardian ad litem to any of the parties.

5) Requires a guardian ad litem in a civil case, if they become aware that a potential conflict of interest has become an actual conflict of interest or that a new potential or actual conflict exists, to promptly disclose the conflict of interest to the court.

6) Modifies, for purposes of the appointment of a guardian ad litem pursuant to Probate Code section 1003, the list of persons for whom a guardian may be appointed by replacing "an incapacitated person" with "a person who lacks legal capacity to make decisions."

7) Provides that, before a guardian ad litem is appointed pursuant to Probate Code section 1003, the proposed guardian ad litem must disclose to the court and all parties to the action any known potential or actual conflicts of interest arising from appointment and any familial or affiliate relationship of the guardian ad litem to any of the parties.

8) Requires a guardian ad litem appointed pursuant to Probate Code section 1003, if they become aware that a potential conflict of interest has become an actual

conflict of interest or that a new potential or actual conflict exists, to promptly disclose the conflict of interest to the court.

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

SUPPORT: (Verified 8/22/22)

California Lawyers Association, Executive Committee of the Trusts and Estates Section (source)

OPPOSITION: (Verified 8/22/22)

None received

ARGUMENTS IN SUPPORT: According to the sponsor of the bill, the Executive Committee of the Trusts and Estates Section of the California Lawyers Association:

> SB 1279 will strengthen and codify several aspects of guardian ad litem appointments that often occur informally or without clear guidance for litigants and their lawyers. This bill will also resolve ambiguities in the statutes as to when appointment of a guardian ad litem is appropriate. Through these clarifications, the court will better ensure that those provided a guardian ad litem are properly represented and protected in pending litigation.
>
> Although the purpose of a guardian ad litem is to ensure the rights of the ward (the person whose interests are being represented by the guardian ad litem) are protected in litigation, often guardians ad litem are appointed by the court without clear parameters around their powers or what their reporting responsibilities are to the court. In addition, although the Judicial Council form requires disclosure of conflicts of interest by the proposed guardian ad litem, that is not currently required by statute. These ambiguities have led to uneven practice across the state, confusion among litigants, and abuses by guardians ad litem.

ASSEMBLY FLOOR: 77-0, 8/22/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris,

Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Davies, Levine

Prepared by: Allison Meredith / JUD. / (916) 651-4113
8/22/22 19:59:38

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

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UNFINISHED BUSINESS

Bill No: SB 1291
Author: Archuleta (D), et al.
Amended: 8/18/22
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 4/20/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE TRANSPORTATION COMMITTEE: 14-0, 4/26/22
AYES: Gonzalez, Allen, Archuleta, Becker, Cortese, Dodd, Limón, McGuire, Melendez, Min, Newman, Rubio, Skinner, Wieckowski
NO VOTE RECORDED: Bates, Dahle, Wilk

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 37-0, 5/25/22
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Gonzalez, Grove, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Glazer, Hertzberg, Stern

ASSEMBLY FLOOR: 75-0, 8/22/22 - See last page for vote

SUBJECT: Hydrogen-fueling stations: administrative approval

SOURCE: California Hydrogen Coalition

DIGEST: This bill, until January 1, 2030, requires cities and counties to administratively review applications for hydrogen-fueling stations and allows for denials based only on health or safety impacts.

Assembly Amendments limit the application of the bill to commercial or industrial parcels, add a January 1, 2030 sunset, and make other technical and clarifying changes.

ANALYSIS:

Existing law:

1) Requires the California Energy Commission (CEC) to allocate $20 million annually, as specified, until there are at least 100 publicly available hydrogen-fueling stations in California (AB 8, Perea, 2013).

2) Requires the CEC and California Air Resources Board (CARB) to annually review and report on progress toward establishing a hydrogen-fueling network that provides the coverage and capacity to fuel vehicles requiring hydrogen fuel that are being placed into operation in the state (AB 8, Perea, 2013).

3) Allows, pursuant to the California Constitution, 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."

4) Requires the following, pursuant to AB 1236 (Chiu, Chapter 598, Statutes of 2015):

    a) With certain exceptions, cities and counties to administratively approve an application to install EV charging stations through the issuance of a building permit or similar nondiscretionary permit and limits review to whether the station meets all health and safety requirements of local, state, and federal law (AB 1236, Chiu, 2015).

    b) On or before September 30, 2016, every local agency with a population of 200,000 or more, and on or before September 30, 2017, every local agency with a population of less than 200,000, to adopt an ordinance that creates an expedited, streamlined permitting process for EV charging stations.

This bill:

1) Requires a city or county to administratively approve an application for a hydrogen-fueling station through the issuance of a building permit or similar nondiscretionary permit.

2) Requires the station to be locate on a parcel zoned for commercial or industrial use, or be on a site that was formerly developed as a gas station in order to be eligible for the administrative review.

3) Limits review of an application to the building official's review of whether it meets all health and safety requirements of local, state, and federal law.

4) Limits local permitting requirements to those standards and regulations necessary to ensure that the electric vehicle (EV) charging station or hydrogen-fueling station will not have a specific, adverse impact upon the public health or safety, as specified.

5) Allows a county or city to require an applicant to apply for a use permit if the building official makes a finding, based on substantial evidence, that the hydrogen-fueling station could have a specific, adverse impact upon the public health and safety.

6) Prohibits a local agency from denying an application for a use permit to install a hydrogen-fueling station unless it makes written findings based upon substantial evidence in the record that the proposed installation will have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact

7) Requires the findings in 4) to include the basis for the rejection of potential feasible alternatives of preventing the adverse impact.

8) Allows a decision of the building official under 3) or 4) to be appealed to the planning commission of the local agency.

9) Requires conditions imposed on an application to install a hydrogen-fueling station to be designed to mitigate the specific, adverse impact upon the public health and safety at the lowest cost possible

10) Prohibits conditioning approval of a hydrogen fueling station on approval by a homeowner's association.

11) Requires a hydrogen-fueling station to meet specified health and safety requirements and performance standards and requirements imposed by state and local permitting authorities.

12) Defines "hydrogen-fueling station" to be the equipment used to store and dispense hydrogen fuel to vehicles according to industry codes and standards that is open to the public.

13) Repeals the above provisions on January 1, 2030 and includes findings and declarations to support its purposes.

Background

As an alternative to gasoline-based vehicles, California has more fuel cell electric vehicles (FCEVs)—and the hydrogen-fueling stations necessary to fuel them—than any other state in the nation. In January 2018, Governor Brown signed Executive Order B-48-18, setting targets of 200 hydrogen fueling stations and 250,000 EV chargers to support 1.5 million zero-emission vehicles (ZEVs) on California roads by 2025, on the path to five million ZEVs by 2030 and 100 percent of in-state sales of new passenger cars and trucks as ZEVs by 2035. Although the vast majority of those vehicles are projected to be battery EVs supported by EV chargers, the state currently has approximately 8,000 FCEVs on the roads and 61 hydrogen-fueling stations, according to the California Energy Commission's (CEC's) Zero Emission Vehicle and Infrastructure Statistics dashboard.

GO-Biz Hydrogen Station Permitting Guidebook. In October 2015, the California Governor's Office of Business and Economic Development (GO-Biz) published the first edition of its "Hydrogen Station Permitting Guidebook," and updated it in September 2020. The GO-Biz Guidebook is intended to help local jurisdictions and hydrogen station developers navigate and streamline the station development process by serving as a centralized resource "to minimize the research required to permit a station from both the authorities having jurisdiction (AHJs) or reviewing entities (often a city or county) and station developer perspective, offering insight and tools from past experiences and general recommendations for streamlining the permitting process." The Guidebook notes:

> Experience has shown that gaining planning approval can be the most time-consuming portion of the permitting process, underscoring the importance of early engagement with the planning department. Typical timeframes for completing this phase range from one day to six months, although station developers have reported instances that were significantly longer (e.g., greater than a year). It is also important to kick off discussions with utility providers to understand the process and timeline for connecting to the grid. Depending on the station location, type, and project size, this piece can be very time consuming and has been the source of significant project delays.

Battery EV charger streamlining under AB 1236 (Chiu, 2015). Currently, the dominant type of ZEV is battery-powered EVs, which are refueled at EV charging stations. Responding to the patchwork of California's EV permitting structure and

the uncertainty it posed to installers, AB 1236 (Chiu, Chapter 598, Statutes of 2015) placed significant new requirements into law regarding applications to install EV charging stations. The California Hydrogen Coalition wants to create parity between permitting of EV charging stations and hydrogen-fueling stations.

Comments

1) *Purpose of the bill.* According to the author, "California is a world leader when it comes to zero-emission vehicle deployment. However, California has focused primarily on plug in electric vehicles. Hydrogen fuel cell vehicles are complimentary zero emission vehicles and California needs do more to support their adoption. This bill does that by requiring local governments to expand their existing administrative approval process for the permitting of zero emission vehicle infrastructure to include hydrogen-fueling infrastructure."

2) *Too soon?* When the Legislature approved AB 1236 in 2015, there were around 137,000 EVs on the road in California, with 12,000 charging stations to support them. As the Legislature is considering SB 1291, the number of FCEVs and hydrogen fueling stations are orders of magnitude smaller: as of January 2022, there were about 8,000 FCEVs on the road and 61 fueling stations. SB 1291 is not as aggressive as AB 1236 was—this bill does not require every jurisdiction to develop an ordinance and streamlined process specific to hydrogen-fueling. Nonetheless, SB 1291 places limitations on the ability of local governments to regulate hydrogen-fueling stations as they see fit before the vast majority jurisdictions in the state have seen a single application—of the 61 stations currently open, almost all are in four counties: Los Angeles (18), Orange (10), Santa Clara (7), and Alameda (6). CEC and CARB's 2021 AB 8 report goes on to note that "most of the planned development continues to focus on areas where stations have been under development in prior years." Does the demand for FCEVs and associated fueling stations exists to an extent that warrants state intervention in local permitting processes?

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

According to the Assembly Appropriations Committee:

- Negligible state costs.
- Local costs resulting from this bill are not reimbursable by the state because local governments have general authority to charge and adjust planning and

permitting fees to cover their administrative expenses associated with new planning mandates.

SUPPORT: (Verified 8/22/22)

California Hydrogen Coalition (source)
Air Products and Chemicals, Inc.
California Hydrogen Business Council
California State Association of Electrical Workers
California State Pipe Trades Council
Coalition of California Utility Employees
Western States Council Sheet Metal, Air, Rail and Transportation

OPPOSITION: (Verified 8/22/22)

None received

ASSEMBLY FLOOR: 75-0, 8/22/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Boerner Horvath, Davies, Levine, Voepel

Prepared by: Anton Favorini-Csorba / GOV. & F. / (916) 651-4119
8/22/22 19:59:40

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

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UNFINISHED BUSINESS

Bill No: SB 1313
Author: Hertzberg (D)
Amended: 6/16/22
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 3-1, 4/4/22
AYES: Cortese, Durazo, Newman
NOES: Ochoa Bogh
NO VOTE RECORDED: Laird

SENATE JUDICIARY COMMITTEE: 9-2, 4/19/22
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, Stern, Wieckowski, Wiener
NOES: Borgeas, Jones

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/19/22
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NOES: Bates, Jones

SENATE FLOOR: 26-9, 5/24/22
AYES: Allen, Atkins, Becker, Bradford, Cortese, Dodd, Durazo, Eggman, Gonzalez, Hueso, Hurtado, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NOES: Bates, Borgeas, Dahle, Grove, Jones, Melendez, Nielsen, Ochoa Bogh, Wilk
NO VOTE RECORDED: Archuleta, Caballero, Glazer, Hertzberg, Kamlager

ASSEMBLY FLOOR: 56-14, 8/25/22 - See last page for vote

SUBJECT: Local public employee organizations: health benefits: discrimination

SOURCE: American Federation of State, County and Municipal Employees
Union of American Physicians and Dentists

DIGEST: This bill prohibits the County of Los Angeles from discriminating against an employee who is a member of a recognized employee organization by, among other things, limiting the employee's health benefit plan enrollment options or eligibility to participate in health benefit plans to plans that provide fewer benefits than those offered to employees who are not represented by a recognized employee organization.

Assembly Amendments add a provision specifying that this prohibition does not constitute a change in, but is declaratory of, existing law.

ANALYSIS:

Existing law:

1) Provides that recognized employee organizations have the right to represent their members in their employment relations with public agencies and requires the governing board of a public agency, or such boards, commissions, administrative officers or other representatives to meet and confer in good faith regarding the terms and conditions of employment with representatives or such recognized employee organizations. (Government Code §3503 & §3505)

2) Specifies that the scope of representation shall include all matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment, except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order. (Government Code §3504)

3) Requires the governing body of a public agency, and boards and commissions designated by law, to give reasonable written notice, except as specified for cases of emergency, to each recognized employee organization affected by any ordinance, rule, resolution, or regulation directly relating to matters within the scope of representation and shall give the recognized employee organization the opportunity to meet with the governing body or the boards and commissions. (Government Code §3504.5(a)(b))

4) Specifies that the governing body of a public agency with a population in excess of 4,000,000, or the boards and commissions designated by the governing body of such a public agency *shall not discriminate against* employees by removing or disqualifying them from a health benefit plan, or otherwise restricting their ability to participate in a health benefit plan, on the

basis that the employees have selected or supported a recognized employee organization. (Government Code §3504.5(c))

5) Specifies that nothing in these provisions shall be construed to prohibit the governing body of a public agency or the board or commission of a public agency and a recognized employee organization *from agreeing to health benefit plan enrollment criteria or eligibility limitations*. (Government Code §3504.5(c))

This bill:

1) Prohibits the County of Los Angeles from discriminating against an employee who is a member of a recognized employee organization by doing any of the following:

   a) Limiting the employee's health benefit plan enrollment options or eligibility to participate in health benefit plans that provide fewer benefits than those offered to employees who are not represented by a recognized employee organization.

   b) Disqualifying the employee from participation in health benefit plans that provide better benefits than the plans offered to employees who are not represented by a recognized employee organization.

   c) Restricting the employee from participation in health benefit plans that are available to managerial employees or other employees who are not members of a recognized employee organization.

2) Specifies that adding these provisions to the Government Code does not constitute a change in, but is declaratory, of existing law.

3) 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, existing law notwithstanding, the County of Los Angeles only provides its MegaFlex Flexible Benefits Plan to management and other nonunion employees.

Background

Union of American Physicians and Dentists v. Los Angeles County. Between the years of 1999 to 2001, the County of Los Angeles (LA County) and the Union of

American Physicians and Dentists (UAPD) were involved in labor negotiations setting forth wages, hours and other terms and conditions of employment for the physicians employed by the County that UAPD represented. During negotiations, LA County adhered to a firm policy enforcing a county ordinance providing that only unrepresented employees could participate in two superior health benefit programs ("Flex" and "MegaFlex"). When negotiations concluded without agreement on this issue, LA County unilaterally removed unionized physicians who were participating in the Flex and Megaflex programs. Effective January 1, 2002, all physicians represented by UAPD would be enrolled in the "Choices" health benefit plan and were no longer eligible to enroll in the County's "Flex" or "MegaFlex" benefit programs.

UAPD filed a lawsuit (Case No.BS081517) against LA County seeking to compel the County to re-enroll its members in the Flex and MegaFlex programs. Among other things, County counsel argued that it was the County policy since the creation of these plans to offer them only to unrepresented County employees and that represented employees receive benefits that are periodically negotiated with the employee unions.

In 2002, the UAPD sponsored AB 2006 (Cedillo, Chapter 1041, Statutes of 2002) in order to specifically prohibit the type of actions taken by LA County against UAPD members in this case. The bill prohibited local authorities from providing different health benefits to unionized employees than non-unionized employees unless the union agrees. These provisions were made retroactive to July 1, 2001, in order to capture the UAPD members who had been removed and denied access to the superior Flex and MegaFlex plans before the LA County policy change.

This litigation culminated in a published opinion by the California Court of Appeal on July 25, 2005, in favor of UAPD (*Union of American Physicians and Dentists v. Los Angeles County Employee Relations Commission (2005) 131 Cal.App.4th 386*). A subsequent Preemptory Writ of Mandamus (a final order of a court to any government body, official or lower court to perform an act the court finds is an official duty required by law) was issued by the Superior Court against LA County requiring the County to retroactively re-enroll physicians represented by UAPD into Flex and MegaFlex and to make them whole for having been enrolled in Choices.

In order to avoid further litigation, in June 2007, a settlement agreement between the two parties was reached providing affected physicians with compensation for claims and/or potential claims of damages because of the County's actions.

NOTE: Please see Senate Labor, Public Employment and Retirement Committee analysis on this bill for more information on existing benefit options and plans available for Los Angeles County employees.

Comments

Need for this bill? According to the author, "due to a loophole in existing law, the County is still offering inferior healthcare benefits to physicians represented by an employee organization. The County's website outlines four separate benefits plan available to employees – Options, Choice, Flex, and MegaFlex – and specifically states the latter two plans are only available for 'eligible non-represented employees.' The MegaFlex plan is clearly superior to the Options and Choice plans, and includes benefits such as a tax-free cafeteria benefit allowance, health insurance, optional life insurances, disability benefits, flexible spending accounts, retirement plans, and paid time off.

"SB 1313 prohibits Los Angeles County from: 1) discriminating against an employee who is a member of a recognized employee organization by limiting their health benefit plan enrollment or eligibility to participation plans that provide fewer benefits; 2) disqualifying them from participation in health benefit plans that provide increased benefits; or 3) restricting them for participation in health benefit plans that are available to managerial employees or other employees who are not members of a recognized employee organization."

Related/Prior Legislation

AB 2006 (Cedillo, Chapter 1041, Statutes of 2002) prohibited the governing body of a specified public agency from providing different health benefits to unionized employees than non-unionized employees unless the union agrees.

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

According to the Assembly Appropriations Committee, potential General Fund costs to reimburse LA County for costs associated with this bill, to the extent the Commission on State Mandates determines that the provisions of this bill create a reimbursable state mandate. LA County indicates this bill would result in one-time administrative costs in the high hundreds of millions of dollars, as well as unknown ongoing administrative costs. In addition, LA County indicates that were it to offer a more expensive health benefit plan to unionized employees as a result of this bill, costs could be in the hundreds of millions of dollars. However, this bill does not require LA County to offer a more expensive health benefit plan to

unionized employees. Rather, it requires parity between unionized and nonunionized employee health benefit plans.

SUPPORT: (Verified 8/25/22)

American Federation of State, County and Municipal Employees (co-source)
Union of American Physicians and Dentists (co-source)

OPPOSITION: (Verified 8/25/22)

California State Association of Counties
Los Angeles County Board of Supervisors
Rural County Representatives of California
Urban Counties of California

ARGUMENTS IN SUPPORT: According to American Federation of State, County and Municipal Employees, one of the co-sponsors of this bill, "Employee organizations serve an important role in the fight for workers' rights and conditions, and no worker should be discriminated against for belonging to one. Amid an unprecedented public health crisis, Californians have been reminded of how integral physicians and doctors are to the public safety of the state. It is imperative that these medical professionals have access to adequate health benefits. Senate Bill 1313 eliminates the loophole in existing laws and mandates that represented employees in the County of Los Angeles are not juxtaposed with subpar health benefits due to their membership in any employee organizations."

ARGUMENTS IN OPPOSITION: The Los Angeles County Board of Supervisors is opposed to this bill and argues that, "The County does not have a policy (written or otherwise) that discriminates against a union receiving the MegaFlex benefit and there has been no explanation from the author nor sponsor as to why other benefit plans offered by the County are "inferior" to MegaFlex. SB 1313, as written, would essentially require the County to provide all represented employees access to the same medical plans at the same employee rates; the County estimates this requirement at an annual cost of $865 million, which does not include administrative costs."

Additionally, they argue that, "Aside from the policy precedent SB 1313 would set by codifying employee benefits that the Legislature has long determined should be done through collective bargaining, this bill is unconstitutional. The California Constitution is clear that governing bodies "…shall provide for the number, compensation, tenure, and appointment of employees. (Cal. Const., art. XI, §1(b).). While the word, "benefits" is not explicitly stated, a trial court concluded in

Damon v. County of Los Angeles (2008) 166 Cal.App.4th 1276 that the County "has exclusive authority, as a charter county, to provide for the compensation and conditions of employment of its employees…" It is widely understood that compensation implies total compensation, which includes, among other things, health benefits, retirement benefits, salary, access to programs provided by the employer and salary or hourly pay rates. SB 1313 abridges the Board of Supervisors' constitutional power, upends years of labor agreements negotiated in good faith, causes unnecessary labor unrest and carries major, ongoing costs to Los Angeles County."

ASSEMBLY FLOOR: 56-14, 8/25/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Chen, Choi, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Mathis, Nguyen, Seyarto, Smith, Valladares, Voepel
NO VOTE RECORDED: Bigelow, Cooley, Cunningham, Gray, Irwin, Lackey, Patterson, Blanca Rubio, Salas, Waldron

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
8/26/22 15:48:05

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

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UNFINISHED BUSINESS

Bill No: SB 1342
Author: Bates (R), et al.
Amended: 6/23/22
Vote: 27

SENATE HUMAN SERVICES COMMITTEE: 5-0, 4/5/22
AYES: Hurtado, Jones, Cortese, Kamlager, Pan

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

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/19/22
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SENATE FLOOR: 39-0, 5/25/22
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Hertzberg

ASSEMBLY FLOOR: 76-0, 8/24/22 - See last page for vote

SUBJECT: Aging multidisciplinary personnel teams

SOURCE: Orange County

DIGEST: This bill allows a county or Area Agency on Aging (AAA) to establish an aging multidisciplinary team (MDT) with the goal of facilitating the expedited identification, assessment, and linkage of older adults to services, and allows provider agencies and members of the MDT to share confidential information for the purposes of coordinating services. This bill requires a county or AAA that

establishes an aging MDT to adhere to a number of protocols surrounding the privacy, security, and confidentiality of the information and records shared.

Assembly Amendments specify that a representative from the Office of the State Long-Term Care Ombudsman may be included in the aging MDT.

ANALYSIS: Existing federal law establishes the Older Americans Act (OAA), which promotes the well-being of Americans 60 years old and above through services and programs designed to meet the specific needs of older citizens. *(42 United States Code 3001, et seq.)*

Existing state law:

1) Recognizes AAAs to be the local units on aging in California that are supported from an array of funding sources, including the OAA, state and local governmental assistance, the private sector, and individual contributions for services, and requires AAAs to function as the community link at the local level for development of home- and community-based services provided under CDA's programs. *(WIC 9400 et seq.)*

2) Allows for MDTs for the purpose of the prevention, identification, management, or treatment of an abused child and their parents. Further allows a county to establish a child abuse MDT to allow provider agencies to share confidential information in order for provider agencies to investigate reports of suspected child abuse or neglect, as specified, or for the purpose of child welfare agencies making a detention determination. *(WIC 18964; WIC 18961.7(c))*

3) Allows for MDTs for the purpose of the prevention, identification, management, or treatment of abuse of elderly or dependent adults. *(WIC 15610.55)*

4) Allows for a homeless adult and family MDT in the Counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Clara, and Ventura to serve individuals at risk of homelessness for the purpose of facilitating the expedited prevention of homelessness for those individuals. *(WIC 18999.81)*

5) Allows area agencies on aging and other county agencies that provide services to older adults through an established MDT, including the county departments of public social services, health, mental health, alcohol and drug abuse, and the public guardian, to provide information regarding older adult clients only to other county agencies with staff designated as members of an MDT that are, or may be, providing services to the same individuals for purposes of identifying

and coordinating the treatment of individuals served by more than one agency. (*WIC 9401)*

This bill:

1) Permits a county or AAA to establish an aging MDT with the goal of facilitating the expedited identification, assessment, and linkage of older adult services and to allow provider agencies and members of the personnel team to share confidential information for the purpose of coordinating services.

2) Defines "aging multidisciplinary personnel team" to mean any team of two or more persons who are trained in and qualified to provide a broad range of services related to older adults. The team may include, but is not limited to: mental health and substance use disorder personnel and practitioners or other trained counseling personnel; police officers, probation officers, or other law enforcement agents; legal counsel for the older adult; medical personnel with sufficient training to provide health services; social service workers with experience or training in the eligibility for and provision of services to older adults; case managers or case coordinators responsible for referral, linkage, or coordination of care and services provided to older adults; veterans services providers and counselors; domestic violence victim service organizations, as defined; a member of an existing MDT, as defined; aging services provider agencies and designated personnel, including AAAs; and a representative of the Office of the State Long-Term Care Ombudsman.

3) Defines "aging service provider agency" as any governmental or other agency that has, as one of its purposes, the identification, assessment, and linkage of services to older adults. Further, provides that the aging services provider agencies that may share information include, but are not limited to: social services; health services; mental health services, substance use disorder services; probation; law enforcement; legal counsel for the adult; veterans services and counseling; domestic violence victim service organizations, as defined; a member of an established MDT, as defined; caregivers; housing; and long-term care ombudsperson.

4) Defines "older adult" to mean a person 60 years of age or older.

5) Allows members of an MDT engaged in the identification, assessment, and linkage of services to older adults to disclose and exchange information with one another that may be designated as confidential under state law if the member of the team reasonably believes it is generally relevant to the identification or provision of services, as provided. States that any discussion

relative to the disclosure or exchange of the information during a team meeting is confidential and, notwithstanding any other law, testimony concerning that discussion is not admissible in any criminal, civil, or juvenile court proceeding.

6) Requires information sharing by the aging MDT to be governed by protocols developed by each county or AAA that establishes an MDT.

   a) Requires protocols to include the items of information or data that will be shared; the participating agencies; and a description of how the information will be used by the aging MDT only for the intended purposes of facilitating the expedited identification, assessment, and linkage of older adult services; among other requirements. Additionally requires protocols to include various requirements around the confidentiality, integrity, security, and privacy of the information shared.

   b) Requires protocols to include a requirement that the county or AAA obtain the affirmative consent of an individual or their representative before the individual's information may be shared.

   c) Further requires protocols to include a requirement that the county or AAA notify an individual that their information may be shared for the purposes of the identification of or the provision of services once affirmative consent is obtained. Requires this notice to inform the individual that opting out of sharing this information does not affect their eligibility for services.

7) States that in order to protect and individual's privacy and maintain the ability of members of an aging MDT to communicate candidly to provide the best services to benefit the health and safety of older adults, it is necessary to limit the public's right of access within the meaning of Section 3 of Article I of the California Constitution.

Background

Multidisciplinary Personnel Teams. Since the passage of AB 1049 (Bader, Chapter 353, Statutes of 1987), MDTs have been authorized in California to allow for a coordinated interagency response to elder and child abuse cases. MDTs are formed and operated at the county level and afford their members with the ability to share confidential information among team members for the purposes of preventing, identifying, or treating child or elder abuse. MDTs are seen as an effective tool for conducting a timely and objective investigation, with the added benefit of facilitating coordination and team decision-making among the different agencies and entities participating on the team.

In 2017, AB 210 (Santiago, Chapter 544, Statutes 2017) enabled counties to create MDTs for homeless adults and families 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. In 2019, AB 728 (Santiago, Chapter 337, Statutes of 2019), created a five-year pilot program in the counties of Los Angeles, Riverside, San Bernardino, San Diego, Santa Clara, and Ventura that allows those counties to expand the scope of a homeless adult and family MDT to include individuals who are at risk of homelessness. It also required the MDT member who first establishes contact with an individual at risk of homelessness to notify the individual that their confidential information may be shared for the purpose of coordinating housing and supportive services, and to attempt to obtain the individual's consent for that information sharing.

Comments

Purpose of this bill. According to the author, "the current system does not allow for the coordination of services among agencies who provide services to older adults," as older adults often interact with multiple county departments and community service providers with various points of entry. "Older adults are required to repeat their stories to each new provider, and providers are reliant on them to share information regarding services received," limiting the ability for counties to build a collaborative approach to these services. The author further states, "The County of Orange is currently developing a Master Plan for Aging that will coordinate services for older adults and allow them to thrive in our county. Resource partners need the authority to work together so older adults are seamlessly connected to critical programs and services."

The provisions of this bill are substantially similar to the provisions of AB 210 (Santiago, Chapter 544, Statutes 2017), which expanded MDTs to link homeless individuals to services, but instead apply the MDT model for the purposes of facilitating the linkage of older adults to aging services within the county or AAA's service area. Under this bill, any adult age 60 or over who seeks services from their local county or AAA could be subject to having their confidential information shared across a wide array of agencies, if they consent to this information sharing and the MDT member believes it is relevant to the provision of services.

Related/Prior Legislation

AB 728 (Santiago, Chapter 337, Statutes of 2019) created 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 a homeless adult and family MDT to include serving individuals who are at risk of homeless, and set parameters for the application of those MDTs to individuals who are at risk of homelessness.

AB 210 (Santiago, Chapter 544, Statutes of 2017) allowed counties to develop homeless adult and family MDTs in order to facilitate identification and assessment of homeless individuals, and link homeless individuals to housing and supportive services, and to allow service providers to share confidential information to ensure continuity of care.

AB 2229 (Brownley, Chapter 464, Statutes of 2010) established time-limited authority for counties to create two-person MDTs engaged in the investigation of suspected child abuse or neglect.

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

According to the Assembly Appropriations Committee:

- Potential General Fund (GF) cost pressures to state services programs of an unknown but potentially significant amount, to the extent there are increased caseloads resulting from the efforts of the MDTs authorized by this bill.

- Potential costs to the courts of an unknown, but likely minor amount (Trial Court Trust Fund and GF) to the extent the courts experience an increase in the number of cases involving inappropriate disclosure of information as a result of this bill.

- Minor and absorbable administrative costs to the California Department of Aging.

- Participating counties will incur costs to create and administer a multidisciplinary team. However, this is an optional activity for counties and, therefore, county costs are not reimbursable by the state.

SUPPORT: (Verified 8/24/22)

Orange County (source)
Alzheimer's Orange County
Braille Institute of America, Inc.
California State Association of Counties
CalOptima
City of Laguna Niguel

Contra Costa County
County Welfare Directors Association of California
Meals on Wheels Orange County
National Association of Social Workers, California Chapter
Orange County Employees Association
Orange County United Way
Purfoods, LLC
Urban Counties of California
Ventura County

OPPOSITION: (Verified 8/24/22)

None received

ASSEMBLY FLOOR: 76-0, 8/24/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Gray, Irwin, McCarty

Prepared by: Elizabeth Schmitt / HUMAN S. / (916) 651-1524
8/24/22 19:23:14

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

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UNFINISHED BUSINESS

Bill No: SB 1360
Author: Umberg (D) and Allen (D), et al.
Amended: 6/22/22
Vote: 27

SENATE ELECTIONS & C.A. COMMITTEE: 4-1, 3/28/22
AYES: Glazer, Hertzberg, Leyva, Newman
NOES: Nielsen

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/19/22
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NOES: Bates, Jones

SENATE FLOOR: 34-3, 5/25/22
AYES: Allen, Archuleta, Atkins, Becker, Borgeas, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NOES: Bates, Jones, Nielsen
NO VOTE RECORDED: Dahle, Hertzberg, Melendez

ASSEMBLY FLOOR: 62-10, 8/23/22 - See last page for vote

SUBJECT: Elections: disclosure of contributors

SOURCE: California Clean Money Campaign

DIGEST: This bill changes the text and formatting of required disclosures on petitions and electronic media and video campaign advertisements, as specified. This bill also requires disclosures on electronic media advertisements about top contributors funding the advertisement, as specified.

Assembly Amendments make clarifying, technical, and conforming changes.

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) Defines "advertisement," for the purposes of the PRA, as any general or public communication that is authorized and paid for by a committee, as defined, for the purpose of supporting or opposing at least one candidate for elective office or at least one ballot measure, except as specified.

3) Requires advertisements that support or oppose candidates or ballot measures to include disclosure statements in specified circumstances. Requires that these disclosures comply with certain formatting, display, legibility, and audibility requirements.

4) Requires an advertisement supporting or opposing a candidate that is paid for by an independent expenditure to include a statement that it was not authorized by a candidate or a committee controlled by a candidate.

5) Defines “top contributors,” for the purposes of the PRA, as the persons from whom the committee paying for an advertisement has received its three highest cumulative contributions of $50,000 or more.

6) Requires any advertisement supporting or opposing a candidate or ballot measure paid for by a committee, other than a political party committee or a candidate’s controlled committee, to include the words “committee major funding from” followed by the names of the committee’s top contributors, as defined above and unless certain conditions are met.

7) Prescribes requirements regarding the form, content, and presentation of the top contributors disclosures on advertisements, which vary based on the medium of the advertisement, as specified.

8) Prescribes requirements regarding the form, content, and presentation of an initiative, referendum, and recall petition.

9) Provides that a petition must be designed so that each signer can personally affix their signature, printed name, residence address, and incorporated city or unincorporated community.

10) Requires, for a state or local initiative, referendum, or recall petition for which the circulation is paid for by a committee, as specified, that an "Official Top Funders" disclosure be made, either in a box with a black border on the petition or on a separate sheet as specified, that identifies the name of the committee, any qualifying "top contributors," as that term is defined in the PRA, and the month and year during which the Official Top Funders disclosure is valid. Provides that the printed month and year of validity may start at most seven days after the date the top contributors were last confirmed.

11) Permits the committee, in its discretion, to include a list of up to three endorsers, as defined, with the Official Top Funders disclosure, either on the petition or on the separate sheet, as specified.

12) Requires that the Official Top Funders disclosure include, either on the petition or the separate sheet, a link to an internet web page with updated information on the committee's top funders, as specified.

13) Requires a state or local initiative petition contain the following notices, in 11-point type, after the heading "NOTICE TO THE PUBLIC:" and before that portion of the petition for voters' signatures:

    a) For petitions that do not include the Official Top Funders disclosure on the petition: "YOU HAVE THE RIGHT TO SEE AN "OFFICIAL TOP FUNDERS" SHEET." Provides that this text shall be in a boldface font.

    b) "THIS PETITION MAY BE CIRCULATED BY A PAID SIGNATURE GATHERER OR A VOLUNTEER. YOU HAVE THE RIGHT TO ASK."

    c) For state initiative petitions only: "THE PROPONENTS OF THIS PROPOSED INITIATIVE MEASURE HAVE THE RIGHT TO WITHDRAW THIS PETITION AT ANY TIME BEFORE THE MEASURE QUALIFIES FOR THE BALLOT."

14) Requires petition circulators to certify under the penalty of perjury that they showed each petition signer a valid Official Top Funders sheet if the petition does not include a disclosure statement containing the same information.

15) Provides that signatures collected on a petition are not invalid solely because the Official Top Funders disclosure was absent or inaccurate.

This bill:

1) Makes changes to the required disclosures printed on state or local initiative petitions and expands these disclosure requirements to state or local referenda and recall petitions, as specified. Specifically, requires, in order and after "NOTICE TO THE PUBLIC:":

   a) The following sentence, for petitions that include the Official Top Funders disclosure on a petition in boldface type: "SIGN ONLY IF IT IS THE SAME MONTH SHOWN IN THE OFFICIAL TOP FUNDERS OR YOU SAW AN 'OFFICIAL TOP FUNDERS' SHEET FOR THIS MONTH."

   b) The following sentence be in non-boldface type: "THIS PETITION MAY BE CIRCULATED BY A PAID SIGNATURE GATHERER OR A VOLUNTEER. YOU HAVE THE RIGHT TO ASK."

   c) The following sentence for a state initiative petition be in non-boldface type: "THE PROPONENTS OF THIS PROPOSED INITIATIVE MEASURE HAVE THE RIGHT TO WITHDRAW THIS PETITION AT ANY TIME BEFORE THE MEASURE QUALIFIES FOR THE BALLOT."

2) Requires, for petitions that *do not include* the Official Top Funders disclosure on a petition, the following text on a separate horizontal line below the signer's printed name and above the signer's signature: "DO NOT SIGN UNLESS you have seen Official Top Funders sheet and its month is still valid." Requires the "DO NOT SIGN UNLESS" text to be in all capitals and in boldface. Requires the other text to be capitalized as shown above and not be in boldface, as specified.

3) Requires, unless otherwise specified, that the text of an Official Top Funders sheet not be in boldface type.

4) Specifies that the circulating title and summary prepared by the Attorney General that is currently required to appear on each page of an initiative petition must precede the text of the measure, as specified.

5) Makes a number of clarifications and formatting changes to the disclosures required on specific types of campaign advertisements, including electronic media advertisements, as specified.

6) Makes technical and conforming changes.

7) Makes findings and declarations.

Background

The Disclose Act and Other Previous Legislation. In 2017, the Legislature approved and the Governor signed AB 249 (Mullin, Chapter 546, Statutes of 2017), which significantly changed the content and format of disclosure statements required on specified campaign advertisements, including video and electronic media advertisements, in a manner that generally required such disclosures to be more prominent. AB 249 also established new requirements for determining when contributions are considered to be earmarked, and imposed new disclosure requirements for earmarked contributions to ensure that committees are able to determine which contributors must be listed on campaign advertisements. AB 249 is commonly known as the "Disclose Act."

Petition Notices and Signature Lines. Existing law requires that certain notices be printed in all capital letters on state and local initiative petitions, after the heading "NOTICE TO THE PUBLIC" and above where voters sign the petition. For petitions that do not include the Official Top Funders disclosure on the petition: "YOU HAVE THE RIGHT TO SEE AN 'OFFICIAL TOP FUNDERS' SHEET" and provides that this text shall be in a boldface font. The petition is also required to contain the sentence, "THIS PETITION MAY BE CIRCULATED BY A PAID SIGNATURE GATHERER OR A VOLUNTEER. YOU HAVE THE RIGHT TO ASK." Finally, for state initiative petitions the following sentence is also required: "THE PROPONENTS OF THIS PROPOSED INITIATIVE MEASURE HAVE THE RIGHT TO WITHDRAW THIS PETITION AT ANY TIME BEFORE THE MEASURE QUALIFIES FOR THE BALLOT."

SB 1360 adds state and local referenda and recall petitions to the state and local initiative petition requirements and makes wording as well as formatting changes.

For petitions that *do not include* the Official Top Funders disclosure on a petition, the following text appears on a separate horizontal line below the signer's printed name and above the signer's signature: "DO NOT SIGN UNLESS you have seen Official Top Funders sheet and its month is still valid." This statement would appear near every signature line.

Video Advertisements. Under existing law, video advertisements, including video advertisements distributed over the internet, must disclose the name of the committee paying for the ad and the committee's top contributors on a solid black

background that takes up the bottom one-third of the screen. The disclosure must be displayed for at least five seconds of a broadcast of 30 seconds or less or for at least 10 seconds of a broadcast that lasts longer than 30 seconds. The smallest letter in the disclosure must take up at least 4% of the height of the video screen and must be in a contrasting color. However, the name of the top contributor may have its type condensed if it would exceed the length of the screen.

Electronic Media Advertisements. Under existing law, an electronic media advertisement that is a graphic or an image, as specified, must include the text "Who funded this ad?," "Paid for by," or "Ad Paid for by" in a contrasting color and a font size that is easily readable by the average viewer. This text must be hyperlinked to an internet website which contains the committee's top contributors disclosure and other required disclosures. However, if this text would take up more than one-third of the advertisement's image, the text may be omitted, but the advertisement must still include a hyperlink to the required disclosures. Unlike most other types of advertisements, electronic media advertisements are not currently required to display the committee's top contributors.

If adding the top contributor would take up a specified amount of the graphic or image, the disclosure could be reduced to the text, "Who funded this ad?" with a hyperlink to a website with the required disclosures. If that text would take up more than a specified amount of the advertisement, then only the hyperlink would be required.

Comments

According to the author, previous elections have highlighted tactics used by some campaign committees to avoid the transparency required by current California law on ads about ballot measures and independent expenditures and on initiative, referendum, and recall petitions. People shouldn't have to pause their TVs or computers, squint, or run to the kitchen for their glasses to determine who is funding political ads. Transparency in our political process is more important than ever and voters deserve to be treated respectfully.

On many television ads, long committee names are used that look like huge chunks of text that are hard to distinguish from the top funders of the committee during the five seconds the disclosure is displayed on the ad. Additionally, some campaigns take advantage of the fact that online image ads are the only major format of political advertising that isn't currently required to disclose any top funders on the ad to deluge voters with ads that hide who paid for them. Therefore, SB 1360 updates the formatting requirements of disclosure text on television, video, and online graphic advertisements to address these problems and to make it easier to

read who's paying for them. It also ensures that voters who are being approached to sign initiative, referendum, and recall petitions know they must be shown the top funders paying for their circulation, which many paid signature gatherers have not been showing voters despite requirements in current law.

Related/Prior Legislation

SB 752 (Allen, 2021) would have lowered the contribution thresholds at which a contributor to a political committee may be required to be identified on political ads paid for by that committee, or on petitions that the committee pays to circulate, as specified. The bill also would have changed the text and formatting of required disclosures on petitions and electronic media and video campaign advertisements, as specified. SB 752 was held in Assembly Appropriations on the Suspense File.

SB 47 (Allen, Chapter 563, Statutes of 2019) required that a top funders disclosure be made on an initiative, referendum, or recall petition, or on a separate sheet, as specified.

AB 2188 (Mullin, Chapter 754, Statutes of 2018) required online platforms that sell political ads to make specified information about those political ads available to the public and made various changes to the required format for disclosures on electronic media ads.

AB 249 (Mullin, Chapter 546, Statutes of 2017) enacted the "Disclose Act" and significantly changed the content and format of disclosure statements required on specified campaign advertisements. AB 249 also established new requirements for determining when contributions are considered to be earmarked, as specified.

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

According to the Assembly Appropriations Committee:

The Fair Political Practices Commission (FPPC) indicates it would incur first-year costs of $170,000, and $163,000 annually thereafter, to implement the provisions of the bill (General Fund). The bill would not have any costs to the Secretary of State (SOS).

SUPPORT: (Verified 8/23/22)

California Clean Money Campaign (source)
California Broadcasters Association

California Church Impact
California Common Cause
California for Disability Rights
Consumer Watchdog
Courage California
Endangered Habitats League
Indivisible CA: StateStrong
Initiate Justice
League of Women Voters of California
MapLight
Money Out Voters In
Northern California Recycling Association
Progressive Democrats of America California
Public Citizen
RootsAction.org
Sonoma County Democratic Party
Voices for Progress

OPPOSITION: (Verified 8/23/22)

None received

ASSEMBLY FLOOR: 62-10, 8/23/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Chen, Choi, Megan Dahle, Flora, Fong, Gallagher, Kiley, Mathis, Smith, Voepel
NO VOTE RECORDED: Bigelow, Davies, Eduardo Garcia, Gray, Lackey, Nguyen, Patterson, Seyarto

Prepared by: Scott Matsumoto / E. & C.A. / (916) 651-4106
8/23/22 15:17:28

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

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

UNFINISHED BUSINESS

Bill No: SB 1364
Author: Durazo (D) and Caballero (D), et al.
Amended: 6/14/22
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 3-1, 4/4/22
AYES: Cortese, Durazo, Newman
NOES: Ochoa Bogh
NO VOTE RECORDED: Laird

SENATE JUDICIARY COMMITTEE: 9-2, 4/19/22
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, Stern, Wieckowski, Wiener
NOES: Borgeas, Jones

SENATE APPROPRIATIONS COMMITTEE: 5-1, 5/19/22
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NOES: Jones
NO VOTE RECORDED: Bates

SENATE FLOOR: 27-11, 5/25/22
AYES: Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Durazo, Eggman, Gonzalez, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NOES: Bates, Borgeas, Dahle, Dodd, Glazer, Grove, Jones, Melendez, Nielsen, Ochoa Bogh, Wilk
NO VOTE RECORDED: Allen, Hertzberg

ASSEMBLY FLOOR: 55-16, 8/24/22 - See last page for vote

SUBJECT: University of California: vendors

SOURCE: AFSCME Local 3299

DIGEST: This bill requires vendors to provide their employees with the total compensation rate specified by the vendor's contract, as well as make other specified payroll information available to employees upon request. This bill requires that vendors, as defined, provide specified payroll information to University of California (UC) and any organization that is the exclusive representative of UC employees which perform similar services. This bill also prohibits vendors, as defined, from contracting with the UC if they are supplying employees for services at a lower compensation rate than is specified by UC policy on wages and benefits.

Assembly Amendments make the following changes:

1) Clarify that "vendor", as defined by the bill, does not include a contractor in the construction industry that has entered into a valid collective bargaining agreement.

    a) For the purposes of SB 1364, "Contractor in the Construction Industry" is defined to mean an employer that provides work associated with construction, including any work involving alteration, demolition, building, excavation, renovation, remodeling, maintenance, improvement, repair work, and any other work as described by Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and other similar or related occupations or trades.

2) Clarify that the provisions of SB 1364 are severable and if any provision 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.

ANALYSIS:

Existing law:

1) Establishes the UC as a public trust under the administration of the corporation known as "The Regents of the University of California" and grants the Regents all the powers necessary or convenient for the effective administration of this public trust.

    a) 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.

b) Establishes that the UC Regents are subject only to such legislative control as may be necessary to insure the security of its funds, to ensure 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. (CA Constitution, Article XIV, Sec. 9)

2) Provides that a person or entity shall not enter into a contract or agreement for labor or services with a construction, farm labor, garment, janitorial, security guard, or warehouse contractor, where the person or entity knows or should know that the contract or agreement does not include funds sufficient to allow the contractor to comply with all applicable local, state, and federal laws or regulations governing the labor or services to be provided. (Labor Code §2810)

3) Requires that, at the time of hiring, an employer must provide to each employee a written notice, containing the specified information about overtime, pay rates, minimum wage and certain information about the employer. (Labor Code §2810.5)

4) Requires all employers to provide their employees with an accurate, itemized statement showing gross wages earned, total hours worked by the employee, all deductions, net wages earned, the period for which the employee is paid, all applicable hourly rates in effect during the pay period and the corresponding number of hours worked, the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number and the name and address of the legal entity that is the employer. (Labor Code §226)

5) Specifies penalties for failure to pay at least minimum wage and procedures around filing a claim against an employer for alleged failure to comply with minimum wage law. (Labor Code §1197.1)

This bill:

1) Prohibits any vendor from accepting payment of more than $1000 from the UC for a contract for services if the vendor is performing services or supplying the UC with employees who are paid less than the total compensation rate specified in the vendor's contract with the UC or required by UC policy.

2) Requires a vendor that supplies the University with employees to perform services to provide those employees with written notice of the total

compensation rate specified in the vendor's contract, and the employee's hourly rate of pay, as specified. These notices must be provided at the time each employee is assigned to perform services and thereafter, each January, and within seven days of a change to the employee's hourly rate.

3) Requires that in January and July of each year, a vendor must provide basic payroll to the UC and *any organization with exclusive representation* of university employees, as specified. The vendor must also provide all employees who agree to perform services for the UC with written notice of this requirement, including the following:

> Basic payroll information pertaining to all employees who accept an assignment or continue performing services for the University of California will be shared with the University of California and the organizations that represent University of California employees. The information that will be shared includes your full name, work location, mobile telephone number, email address, and home address. The purpose of sharing this information is to ensure that the University of California and the organizations that represent University of California employees can contact you if they discover you have been paid less than required by contract or university policy and so that the University of California can provide you with a timely offer of employment as soon as you become eligible.

A vendor must also make basic payroll information available to an employee for inspection upon request, as specified.

4) Establishes that the following may constitute evidence of a vendor's intent to deceive or defraud the UC or its employees:

   a) Violation of the requirement to provide employees with a written notice containing employment information, specified in Labor Code Section 2810.5.

   b) Failure to submit to an audit or to supply an independent audit of its payroll records upon request.

   c) Violation of requirements under 2) and 3) above.

5) Allows any employee or university employee to provide a vendor with written notice of a violation of the above sections of this bill and provide the vendor with the opportunity to correct and cure the violation. If the vendor fails to provide documentation that it has or will make whole to all of the allegedly

aggrieved employees within 30 days, the employee who filed the written complaint may file suit.

a) Allows an employee or university employee to bring a civil action for violation of the above sections of this bill against a vendor in the superior court of any county in which the university operates.

b) Requires that if a claimant prevails in an action under this section, the court must order all of the following:

   i) For any vendor that pays an employee less than the compensation rate fixed by contract, as specified, $100 per employee per pay period for an initial violation and $250 per employee per pay period for any subsequent violations.

   ii) For any vendor that knowingly and intentionally violated 2) or 3) above, a civil penalty of $50 dollars per employee per pay period for an initial violation or $100 per employee per pay period for any subsequent violations, with a cap of $4000 per employee.

   iii) For a violation of 2) or 3) above must pay a civil penalty of up to 10% of the amount paid by the university to the vendor the same year or years. Any penalty of this kind must be deposited into the General Fund.

   iv) The disqualification of the vendor, for a minimum of five years for submitting any bid to the university or executing, renewing, or extending any contact with or otherwise receiving payment from the University.

   v) The payment of attorney's fees and costs.

6) Provides that the remedies under this bill are in addition to any other remedies provided by law. The civil penalties under this bill are in addition to any other penalties provided by law, except that an employee cannot also receive civil penalties provided for in Section 226 or 1197.1.

7) Defines the following terms:

   a) "Basic payroll information" means, for each vendor-supplied employee who performed services for the university at any time during the preceding six-month period, the following information:

      i) Employee's full name, job title, mobile telephone number, email, and home address.

ii) Work location.

iii) Employee's hours of work for each pay period during the six-month period.

iv) The employee's hours of work performing services for the university for each pay period during the six-month period.

b) "Subcontractor" means any person, employer, supplier of labor, staffing agency, temporary services employer, or other entity that performs services for the university or supplies employees to perform services, pursuant to a contract with a vendor.

c) "Total compensation rate" means the employee's hourly rate of pay plus the hourly value of employer-provided benefits.

d) "University" means the University of California.

e) "Vendor" means contractor and includes any person, employer, supplier of labor, staffing agency, temporary services employer, labor broker, management services provider or other entity that contracts with the university to perform services or to supply the university with its own employees or those of a subcontractor to perform services. Also means any person acting either individually or as an officer, agent, or employee of a vendor.

Background

Central to SB 1364 is a discussion of the UC Regents Policy 5402: Policy Generally Prohibiting Contracting for Services. This policy was seen as an update to the UC Fair Wage/Fair Work Plan, which guaranteed employees that work at least 20 hours a week would be paid $15 per hour. Regents Policy 5402, approved on November 14, 2019, announced "a general prohibition on contracting out for services and functions that can be performed by University staff". The policy allowed for limited outside contracting, as a last resort, with the following stipulations:

1) Prioritization of the use of existing staff.

2) Compliance with minimum certain workforce standards.

3) Equal Pay for Equal Work, the promise that contracted worker would receive *equal pay and benefits to equivalent UC employees.*

Two months before the UC Board of Regents approved Policy 5402, ACA 14 narrowly failed passage on the Senate Floor. ACA 14 would have added the UC Equal Employment Opportunity Standards Act to Article IX, requiring the Regents of 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. The Constitutional Amendment was developed partially in response to a 2016 Joint Legislative Audit Committee Report entitled *"The University of California Office of the President: It Has Not Adequately Ensured Compliance With Its Employee Displacement and Services Contract Policies".* The report makes a recommendation that:

> The Office of the President should revise contracting policies to address situations in which university locations are contemplating entering into services contracts instead of hiring university employees to perform an activity. In these situations, the Office of the President should require university locations to perform an analysis that is similar to the one it requires when current university employees are displaced.

SB 1364 and UC Contracts

SB 1364 is an effort to enforce compliance with the Equal Pay for Equal Work component of Regents Policy 5402. As noted above, this bill requires vendors who contract with UC to supply a written notice to their employees about relevant contractual compensation rates and supply basic payroll information to the UC and any labor organization that represents equivalent UC employees. Any employee or university employee may bring a civil action against a vendor for a violation of the Equal Pay for Equal Work policy. This bill also establishes penalties attached to a violation of these requirements and disqualifies any vendor found to be in violation from contracting with UC for a minimum of five years.

Supporters argue that SB 1364 follows existing policy recommendations from JLAC to update rules governing UC contracting and ensure compliance. These new reporting requirements and penalties could be necessary. However, as noted in UC's Annual Report to AFSCME on University Contracts:

> COVID-19 presented the University with significant challenges in meeting our mission areas of teaching, research, patient care, and community service. Our health and medical centers were faced with a once in a lifetime pandemic that required the skills of our highly trained and valued workforce, adaptability, new ways of working, including new policies and procedures, and the ability to ramp up and ramp down as the conditions of the pandemic changed from month to month.

UC should, of course, be adhering to their own written policies concerning wages and benefits. Given the pandemonium caused by COVID-19, combined with UC's administration of health care facilities, some compliance lags are perhaps understandable. It may require more than two years before UC's contracting practices reflect the 5402 policy changes, given the additional hurdle of a virulent pandemic. The reporting requirements under SB 1364 also present potential privacy concerns for workers of vendors outside of the UC, though this group of workers should decrease as full compliance with 5402 is realized.

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

According to the Assembly Appropriations Committee:

1) Ongoing costs of at least tens of millions of dollars annually to UC to cover vendors' cost of compliance and exposure to litigation and penalties as a result of this bill, likely offset to a minor extent by potential penalty revenue.

   UC is generally prohibited from contracting for services, but contracted services are allowed to meet exigent circumstances, with vendors required to pay their employees wage and benefit parity alongside UC employees. However, UC notes its existing policies only cover specified services and contracts valued over $100,000, whereas this bill applies to all types of contracts valued over $1,000. Thus, UC expects vendors willing to continue contracting would negotiate a premium to cover the cost of compliance and exposure to litigation and penalties. Additionally, contracts with vendors not currently subject to UC's existing policies would need to be renegotiated for wage and benefit parity. Lastly, to the extent vendors are no longer willing to service UC, especially at UC's medical centers, UC anticipates significant costs to insource temporary or specialty services. (General Fund (GF))

2) GF or Trial Court Trust Fund (TCTF) cost pressures of an unknown, but potentially significant, amount to the courts in additional workload, by creating a new cause of action and penalties for violation of this bill's provisions. The estimated workload cost of one hour of court time is $1,000. If additional 10 cases are filed statewide resulting in 20 hours of court time for each case, costs would be approximately $200,000. Although courts are not funded on the basis of workload, increased pressure on the TCTF and staff workload may create a need for increased funding for courts from the GF to perform existing duties.

SUPPORT: (Verified 8/24/22)

AFSCME Local 3299 (source)

AFSCME Council 1902 Metropolitan Water District
AFSCME Council 36
AFSCME Council 57
AFSCME Local 1001 Metropolitan Water District
AFSCME Local 206 Union of American Physicians and Dentists
AFSCME Local 3299 University of California
AFSCME Local 4911 United EMS Workers
AFSCME/UNAC-UHCP United Nurses Associations of California - Union of Health Care Professionals
Alameda Labor Council AFL-CIO
AYPAL: Building API Community Power
California Employment Lawyers Association
California Immigrant Policy Center
California Labor Federation, AFL-CIO
California League of United Latin American Citizens
California State Council of Service Employees International Union
California Teachers Association
California Teamsters Public Affairs Council
Central Labor Council Contra Costa County, AFL-CIO
Central Labor Council Fresno, Madera, Tulare, Kings Counties, AFL-CIO
Chinese for Affirmative Action
Courage California
Engineers & Scientists of California, Local 20, IFPTE, AFL-CIO
Five Counties Central Labor Council
Garment Worker Center
Los Angeles Alliance for a New Economy
Los Angeles County Federation of Labor, AFL-CIO
Monterey Bay Central Labor Council, AFL-CIO
North Valley Labor Federation
Sacramento Central Labor Council, AFL-CIO
South Bay Labor Council, AFL-CIO
UFCW 324
Union of American Physicians and Dentists, Affiliated with AFSCME, AFL-CIO
Unite Here, AFL-CIO
United Farm Workers
United Food and Commercial Workers, Western States Council
United Nurses Associations of California/union of Health Care Professionals
Warehouse Worker Resource Center

OPPOSITION: (Verified 8/25/22)

Air Filter Control
American Herbal Pharmacopoeia
Bay Area Council
BizFed LA
California Asian Chamber of Commerce
California Association of Public Hospitals
California Chamber of Commerce
California Hospital Association
CBORD Group
Central City Association, LA
Chinese Chamber of Commerce
Coalition for Public Higher Education
Coastwide Environmental
Essential Steps
Falafel of Santa Cruz
Fidelity Investments
Healthcare Staffing Professionals
IG Harvesting
Iveta Gourmet
LA Area Chamber
Rolling Orange
RPMC
SF Chamber
Shasta Vision
Sign Language Interpreters
Tel-Us Call Center, Inc.
Tri-County Chamber Alliance
University of California
Western Regional Minority Supplier Development Council

ARGUMENTS IN SUPPORT: The California Employment Lawyers Association writes in support:

> Currently, the University of California has in place a policy that requires companies that enter into service contracts with the University of California (UC) to pay those contract employees wages and benefits equal to what UC pays its own service workers – Equal Pay for Equal Work.

SB 1364 will help ensure compliance with the Equal Pay for Equal Work policy by requiring vendors to supply a written notice to their employees about the relevant compensation rates and to also supply basic payroll information to the UC. Any employee or university employee may bring a civil action against a vendor for a violation of the Equal Pay for Equal Work policy. A vendor would have an opportunity to correct and cure any violation under the bill. A failure to cure will give company employees the right to recover wages owed.

ARGUMENTS IN OPPOSITION: The University of California writes in opposition:

The bill is unnecessary because UC already requires WBP under Regents Policy 5402Article 5ii and iii of our collective bargaining agreement (CBA) with AFSCME 3299. UC's policy drives economic mobility, and the union can enforce these policies through their CBA while UC verifies vendor compliance through annual audits.

Additionally, SB 1364 will hurt small businesses and impede UC's ability to meet the needs of our hospitals and campuses. The bill places significant financial and legal risks, and unrealistic administrative requirements, on vendors who contract with UC; the bill includes mandatory court-ordered penalties, even for minor or technical violations.

UC's vendors note that these risks are insurmountable, making SB 1364 a *de facto* ban on contracting. Occasional contracts for covered services are essential for UC to responsibly meet the needs of patients, students, and campuses. This bill drives away vendors needed to cover daily operations, from cleaning rooms and food service to nurses and medical technicians. As a result, health care delivery and patient outcomes may suffer.

ASSEMBLY FLOOR: 55-16, 8/24/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NOES: Choi, Cunningham, Megan Dahle, Davies, Fong, Gallagher, Kiley, Mathis, Mayes, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron

NO VOTE RECORDED: Alvarez, Bigelow, Chen, Daly, Flora, Gray, Irwin, Lackey, Petrie-Norris

Prepared by: Jake Ferrera / L., P.E. & R. / (916) 651-1556
8/25/22 13:07:26

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

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UNFINISHED BUSINESS

Bill No: SB 1398
Author: Gonzalez (D)
Amended: 6/29/22
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 16-0, 4/19/22
AYES: Gonzalez, Bates, Allen, Archuleta, Becker, Cortese, Dahle, Dodd, Limón, McGuire, Melendez, Min, Newman, Rubio, Skinner, Wieckowski
NO VOTE RECORDED: Wilk

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

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 31-0, 5/23/22
AYES: Allen, Atkins, Becker, Bradford, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NO VOTE RECORDED: Archuleta, Bates, Borgeas, Caballero, Grove, Hertzberg, Melendez, Nielsen, Wilk

ASSEMBLY FLOOR: 70-0, 8/23/22 - See last page for vote

SUBJECT: Vehicles: consumer notices

SOURCE: Author

DIGEST: This bill requires certain disclosures by manufacturers and dealers of new vehicles regarding the capabilities of semiautonomous driver assistance features and prohibits the misleading marketing of such features.

Assembly Amendments clarify definitions and require manufacturers to provide dealers with information to satisfy the consumer disclosure requirements in this bill.

ANALYSIS:

Existing law:

1) Requires that vehicles operating on public roads be registered with the Department of Motor Vehicles (DMV).

2) Prohibits vehicle manufacturers and dealers from false or misleading advertising (Vehicle Code §11713).

3) As provided for in DMV regulations, prohibits the false or misleading advertising of a technology as autonomous (13 CCR 228.28).

This bill:

1) Prohibits a manufacturer or dealer from featuring or describing any partial driving automation feature in written marketing materials from using language that implies or would otherwise lead a reasonable person to believe that the feature allows the vehicle to function as an autonomous vehicle (AV) when it lacks that functionality.

2) Defines "partial driving automation feature" as a system equipped with a level 2 partial driving automation in the Society of Automotive Engineers (SAE) Standard (J3016) (April 2021).

3) Requires manufacturers to provide dealers with the information required for dealers to comply with the requirement to provide purchasers with information on the functions and limitations of the partial driving automation feature.

4) Provides that the requirement to provide information on the partial driving automation vehicle shall not alter any existing duty of care or limit the civil liability of a manufacturer or dealer, including, but not limited to, claims for negligence or product defect.

Comments

1) *Author's statement.* "Senate Bill (SB) 1398 increases consumer safety by requiring dealers and manufacturers that sell new passenger vehicles equipped with a semiautonomous driving assistance feature or provides any software

update or vehicle upgrade that adds a semiautonomous driver assistance feature to give a clear description of the functions and limitations of those features. Further, SB 1398 prohibits a manufacturer or dealer from deceptively naming, referring to, or marketing these features."

2) *A Longer Ride than Expected.* The bold predictions made in the middle of the last decade for rapid deployment of autonomous vehicles has given way to the reality that autonomy is hard. While a few companies seem on the verge of launching self-driving autonomous vehicles in limited circumstances, a fully self-driving car is not available today. Yet the road to autonomy has resulted in remarkable progress in developing useful driver assistance features that perform some of the driving tasks. Cruise control, which adjusts to the speed of the vehicle ahead, is widespread; autonomous steering is available on some models, as is self-parking. But at this point, all of these features requires the presence and attention of a human driver for the vehicle to be operated safely. Unfortunately, a quick YouTube search shows that some drivers misuse these advanced features (e.g. vehicles traveling at freeway speed while the "driver" is asleep, or even sitting in the back seat), putting much greater faith in the technology than is warranted and endangering the public.

3) *No Self-Inflicted Wounds.* In addition to cutting-edge technical expertise, the development of autonomous vehicles also requires government approval at the federal and state level. Such approvals have come very deliberately– and California has been more deliberate than most – as the public's fears of autonomous vehicles must be addressed. The industry has, for the most part, also been conservative in deploying the technology as they recognize that crashes of autonomous vehicles will delay government approval and jeopardize public acceptance. By requiring clear disclosures and prohibiting misleading marketing, this bill supports the progress of the autonomous vehicle industry. While it will not stop the irresponsible behavior of drivers who intentionally misuse the technology, it is intended to thwart its unintentional misuse.

4) *Enforcement.* Under current law, the DMV is responsible for ensuring that automotive advertising isn't false or misleading. Its regulations specifically recognize that advertising a vehicle as autonomous when it is not is misleading. On July 28, 2022, after many months of investigation, the DMV filed a complaint against Tesla asserting that it had misleadingly advertised its vehicles as autonomous. DMV requests that Tesla's manufacturing license be suspended and that restitution be awarded to those who have suffered financial loss or damage. Also, the National Highway and Transportation Safety

Administration, the safety arm of the federal Department of Transportation, has an ongoing investigation into the performance of Tesla's advanced driver assistance features.

5) *Supporters*. Supporters point to recent surveys of car owners which show that many owners misunderstand the limitations of their driver assistance features. They believe that more consumer education is needed.

6) *Opposition*. Opponents are concerned that the bill offers a vague solution to an undefined problem without examining the sufficiency of the DMV's broad authority over advertising statements.

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

According to the Assembly Appropriations Committee, cost pressure (Trial Court Trust Fund (TCTF)) in the upper hundreds of thousands of dollars to low hundreds of thousands of dollars in increased court workload, including possible trial costs given the bill expands an existing misdemeanor for misrepresenting facts related to an automobile transaction. Vehicle Code Section 11713 generally prohibits making untrue or misleading statements or advertisements related to vehicle sales or repairs. Based on case law interpretations of Vehicle Code Section 11713, violations may be subject to a six month misdemeanor. A defendant charged with a misdemeanor is entitled to a no cost legal representation and a jury trial. If 3 new misdemeanors are filed annually statewide and proceed to trial resulting in the use of two days of court time, at an estimated cost of approximately $8,000 for an eight-hour court day, the workload cost to the trial courts is $48,000 annually. Although courts are not funded on the basis of workload, increased pressure on the TCTF and staff workload may create a need for increased funding for courts from the General Fund to perform existing duties.

SUPPORT: (Verified 8/23/22)

AAA Northern California, Nevada & Utah
Auto Club of Southern California (AAA)
Consumer Attorneys of California
Consumer Federation of California
Green Hills Software

OPPOSITION: (Verified 8/23/22)

Tesla

ASSEMBLY FLOOR: 70-0, 8/23/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Davies, Flora, Gray, Holden, Kiley, Mathis, Nguyen, Seyarto, Smith

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8/23/22 15:34:26

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

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UNFINISHED BUSINESS

Bill No: SB 1407
Author: Becker (D), et al.
Amended: 8/15/22
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 12-0, 4/18/22
AYES: Roth, Archuleta, Bates, Becker, Dodd, Eggman, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Melendez, Hurtado

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/19/22
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SENATE FLOOR: 39-0, 5/25/22
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Hertzberg

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

SUBJECT: California Employee Ownership Act

SOURCE: Ownership America
Project Equity
Worker-Owned Recovery California Coalition

DIGEST: This bill establishes the California Employee Ownership Hub (Hub) and a Hub Manager within the Office of Small Business Advocate (OSBA) at the Governor's Office of Business and Economic Development (GO-Biz) aimed at increasing awareness and understanding of employee ownership of businesses,

assisting business owners and employees in navigating available resources, and streamlining and reducing barriers to employee ownership.

Assembly Amendments make various conforming changes, including replacing the prior California Employee Ownership Program established by this bill and instead naming it the Hub, and striking various grant programs.

ANALYSIS:

Existing law:

1) Establishes GO-Biz within the Governor's Office for the purpose of serving as the lead state agency for economic strategy and marketing of California on issues relating to business development, private sector investment, and economic growth. (Government Code (GOV) §§ 12096-12098.5)

2) Establishes OSBA within GO-Biz and outlines the duties and functions of the Director of OSBA including representing the views and interests of small businesses before other state agencies whose policies and activities may affect small businesses. (GOV §§ 12098-12098.9)

This bill:

1) Requires, upon appropriation by the Legislature, OSBA to establish the Hub, administered by a Hub Manager, tasked with various responsibilities including: working with all California state agencies whose regulations and programs affect employee-owned companies, and businesses with the potential to become employee-owned, to enhance opportunities and reduce barriers; partnering with organizations to educate business owners and employees about the benefits of employee ownership and employee ownership transition succession models; sharing materials regarding employee ownership benefits and employee ownership transition succession models; providing a referral service to help forge connections to ownership resources and services to assist in employee ownership transitions and the growth of employee-owned businesses; working with the California Infrastructure and Economic Development Bank, the California Pollution Control Financing Authority, and related entities to develop recommendations and enhance the ability of broad-based employee ownership vehicles to access California capital programs; and reporting to the Legislature on activities undertaken and recommendations for improvement, according to specified information.

2) Defines various terms for purposes of the Hub and the Hub's work.

3) Makes findings and declarations about the age of current California's small business owners interested in retiring and the impact on employees that can have if businesses are not able to be taken over by family; highlighting the benefit of employees becoming business owners; outlining the importance of Employee Stock Ownership Plans (ESOPs) being structured to provide employees with a fair valuation of their ownership stake with an independent trustee as a best practice for the transaction; noting the role the state can play in raising awareness of all forms of broad-based employee ownership, increasing access to capital for employee-owned enterprises, encouraging best practices, and ensuring that workers who are most burdened by income and wealth inequality and the racial wealth gap gain access to wealth, quality jobs, and workplace voice through employee ownership.

Background

Currently, GO-Biz administers the following programs and units:

- "Made In California" program for the purpose of encouraging consumer product awareness and to foster the purchases of products manufactured in California.

- The California Inclusive Innovation Hub Program (iHub2) to incubate and/or accelerate technology and science-based firms, with a focus on underserved regions and communities.

- The California Competes Tax Credit Program under which "businesses who want to come to California or stay and grow in California" can receive an income tax credit.

- The California Business Investment Services Unit, which provides no-fee, tailored site selection services to employers and others who may be considering California for relocation or expansion.

- The California Business Portal, which provides information to California businesses about common questions, permitting, financial options, and more.

- The California Community Reinvestment Grants Program, which was included in Proposition 64, authorized GO-Biz to award grants to local health departments and certain nonprofit organizations to support communities disproportionately affected by the War on Drugs.

- Office of the Small Business Advocate which provides information and assistance to small businesses.

- The Zero Emission Vehicles (ZEV) Infrastructure Unit which works to accelerate the deployment of ZEV infrastructure.

- The International Affairs and Business Development Unit, which serves as California's primary point of contact for expanding international trade and investment relations. This unit focuses on foreign direct investment (services for foreign investors, foreign investment technical assistance, and the EB-5 Investor Visa Program), international trade promotion (STEP program, trade missions, export assistance, and the California-China Trade Office), and international agreements.

Since its inception, GO-Biz has served thousands of businesses, 95 percent of which are small businesses. The most frequent types of assistance include help with permit streamlining, starting a business, relocation and expansion of businesses, and regulatory challenges. In addition to economic development programs, GO-Biz is responsible for specialized assistance to small businesses through the OSBA. OSBA directly serves the small business community through hosting summits, forums, and interagency meetings; maintaining resources for technical assistance, financing, and state procurement; holding webinars, and other outreach methods. OSBA coordinates several small business grant programs, including the California Dream Fund, a one-time $35 million grant program to seed entrepreneurship and small business creation via microgrants in the State of California. During the COVID-19 pandemic, OSBA has coordinated California Microbusiness ($2,500) and Small Business ($5,000 - $25,000) COVID-19 Relief Grants. These grants have been used to help support California's nonprofit and cultural and arts programs recover from the impacts of the pandemic. OSBA also coordinates several small business loan programs, including the California Rebuilding Fund, the Loan Guarantee Program, Disaster Relief Loan Guarantee Program, and the California Capital Access Program.

Employee Stock Ownership Plans (ESOPs). An employee-owned company is one where employees own part or all shares in a business. While the forms of employee ownership may be different (such as stock grants, worker cooperatives, and stock options), the goal is the same: to promote employee ownership in a business.

ESOPs are the most common form of employee ownership in the United States; they are more or less retirement plans within Employee-Owned Companies because they provide income to employees through the sale of their stock when they retire. In order for an ESOP to work, the company must first establish a trust

where it can make annual share contributions to qualifying employees. The company can then use the ESOP trust fund to purchase stock from the selling shareholder or leaving owner. The company can also use the ESOP trust to borrow money for funding a share, sale, or transfer. An owner who wants to transfer ownership will sell their shares to the ESOP trust fund; these shares go to qualified employees and are held safely in the trust. To earn these benefits, a qualified employee must become vested in the program by working in the company for a certain number of years. Qualified employees can only receive benefits when they have become partially or 100% vested.

In this way, ESOPs are a business succession plan for founders and owners because it is a way of transferring company stock to employees without requiring sale of the business to a third party. Not only that, but by ensuring a business succession plan, business owners ensure long-lasting jobs in communities, rather than layoffs when companies close or sell to another company. Additional benefits of ESOPs are: helping to motivate and retain employees to work in and for the company because of employee ownership in company stock; and encouraging employees to support everyone's success, given that when the company does well financially, everyone does well financially. However, setting up an ESOP can be expensive, with some estimates between $60,000 and hundreds of thousands of dollars, even back in 2015. (https://www.aegisfiduciary.com/how-much-does-setting-up-an-esop-cost/)

Other States and Cities. Other state and cities have embraced the use of ESOPs in their small business communities. Colorado, Massachusetts, Iowa, and other states all have offices or hubs to facilitate (at the very least) the passage of information regarding ESOPs to business owners. For instance, according to its website, the Colorado Employee Ownership Office "establishes a network of technical support and service providers for businesses considering employee ownership structures. The office brings together partners including employee-owned businesses, attorneys, lawmakers, financial and accounting professionals, rural leaders, and other employee ownership organizations."

As the author notes, local governments in California have also supported employee ownership, including Berkeley, Fremont, Long Beach, Los Angeles City and County, San Francisco, and Santa Clara - most with the support of Project Equity, a co-sponsor of this bill.

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

According to the Assembly Appropriations Committee, implementation of the bill would have "ongoing General Fund costs, likely in the low hundreds of thousands of dollars annually, to create an office at GO-Biz."

SUPPORT: (Verified 8/22/22)

Ownership America (co-source)
Project Equity (co-source)
Worker-Owned Recovery California Coalition (co-source)
California State Treasurer
A Slice of New York
Adams & Chittenden Scientific Glass Cooperative
Alternative Technologies Cooperative
American Sustainable Business Council
American Sustainable Business Network
APS Marketing, Inc.
California Center for Cooperative Development
California Labor Federation, AFL-CIO
California Solar Electric Company
California State Council of Service Employees International Union
CAMEO - California Association for Micro Enterprise Opportunity
Certified Employee-Owned
Cindy Chavez, Santa Clara County Supervisor District 2
City of Los Angeles Councilmember Nithya Raman
City of Santa Clara
City of Sunnyvale
Colmenar Cooperative Consulting
Consumer Federation of California
Cooperacion Santa Ana
Cooperation Humboldt
Cooperative Fund of the Northeast
County of Santa Clara
De Colores C. Consulting
Delta Fund
Democracy At Work Institute
Dig Cooperative Inc.
Drucker Institute
Echo Adventure Cooperative
Employee Ownership Expansion Network

Food Empowerment Project
Fremont City Councilmember Jenny Kassan
Heart@work LLC
Honorable Al-bey J.l.esq.& Affiliates LLC.
Ica Fund
Inheritance Funding Company, Inc.
Insight Realty Company
Jewish Vocational & Career Counseling Service
LA Coop Lab
Lift Economy
Long Beach Alliance for Clean Energy
Meals for All
Multiplier
National Cooperative Business Association Clusa International
Naya Investment INC Dba Achilles
Niles Pie Company
Novaworks
Other Avenues Grocery Cooperative
Pavement Recycling Systems
Pilipino Workers Center
Policylink
Project Equity
Psoas Massage & Bodywork
Public Counsel
Redf
Rye Financial Services
Sassy Facilitation
Sharing Inc.
Smart Yards Co-op
Smarter Good, Inc.
Sol Economics
South Bay Progressive Alliance
Sustain Hawaii
Teamworks Development Institute
The Democracy Collaborative
The ESOP Association
The Foundation for Economic and Social Justice
The School of Visual Philosophy
The Vineyard Restaurant
U.S. Federation of Worker Cooperatives

United Taxi Workers of San Diego
Uptima Entrepreneur Cooperative
Uxo Architects
Ventures
Well Clinic
Worker Ownership Resources and Cooperative Services
Worker-owned Recovery California Coalition
13 individuals

OPPOSITION: (Verified 8/22/22)

None received

ARGUMENTS IN SUPPORT: Generally, supporters write that employee ownership, in the forms of worker cooperatives (co-ops) and ESOPs are proven to benefit businesses, workers, and local economies. Supporters state that "Worker-owned firms see stronger overall business performance and resilience during economic downturns. Workers at these firms see greater wealth-building opportunities and increased job security compared to their counterparts at traditional businesses. Both evidence and experience suggest that employee ownership is a particularly powerful wealth-building opportunity for workers and communities of color; providing additional pathways for workers of color to become employee owners is an essential component of any strategy to address the racial wealth gap."

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

Prepared by: Dana Shaker / B., P. & E.D. / , Hannah Frye / B., P. & E.D. / 8/22/22 20:53:37

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

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UNFINISHED BUSINESS

Bill No: SB 1415
Author: Limón (D) and Bradford (D), et al.
Amended: 6/1/22
Vote: 21

SENATE BANKING & F.I. COMMITTEE: 6-2, 4/20/22
AYES: Limón, Bradford, Durazo, Hueso, Min, Portantino
NOES: Ochoa Bogh, Dahle
NO VOTE RECORDED: Caballero

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 29-7, 5/23/22
AYES: Allen, Atkins, Becker, Bradford, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NOES: Bates, Dahle, Grove, Jones, Melendez, Nielsen, Ochoa Bogh
NO VOTE RECORDED: Archuleta, Borgeas, Caballero, Hertzberg

ASSEMBLY FLOOR: 59-3, 8/25/22 - See last page for vote

SUBJECT: Financial Institutions Law: annual report: overdraft

SOURCE: Author

DIGEST: This bill requires banks and credit unions subject to the examination authority of the Commissioner of Financial Protection and Innovation (commissioner) to report annually the revenue earned from overdraft fees, as specified, and requires the commissioner to publish that information in a publicly available report.

Assembly Amendments are clarifying and technical in nature.

ANALYSIS:

Existing law:

1) Includes the following, among others, in the definition of "licensee" under the Financial Institutions Law (Financial Code Section 185):

   a) A bank authorized by the commissioner to conduct business, as specified.

   b) A credit union authorized by the commissioner to conduct business, as specified.

2) Requires that a licensee under the Financial Institutions Law make and file with the commissioner a report in any form as the commissioner may prescribe and verified in any manner the commissioner prescribes, showing its financial condition and any other information as the commissioner may require. (Financial Code Section 453)

3) Provides for the examination of banks by the commissioner, as specified. (Article 1 of Chapter 5 of Division 1 of the Financial Code, commencing with Section 500 et seq.)

4) Authorizes the commissioner to examine a bank organized under the laws of this state, a bank organized under the laws of another state that maintains an office in this state, and a bank organized under the laws of another country that maintains an office in this state. (Financial Code Section 500)

5) Provides for the examination of credit unions by the commissioner, as specified. (Article 2 of Chapter 3 of Division 5 of the Financial Code, commencing with Section 14250 et seq.; Article 7 of Chapter 11 of Division 5 of the Financial Code, commencing with Section 16150 et seq.; and Article 7 of Chapter 12 of Division 5 of the Financial Code, commencing with Section 16700 et seq.)

This bill:

1) Defines "overdraft" as the processing of a debit transaction that exceeds a customer's account balance.

2) Requires a bank or credit union subject to the examination authority of the commissioner to report annually to the commissioner on the amount of revenue earned from fees paid by its customers related to overdraft and the percentage of overdraft revenue as a proportion of the net income of the bank or credit union.

3) Requires the commissioner of the Department of Financial Protection and Innovation (DFPI) to publish in a report the data required by 2) and makes the report available on DFPI's internet website.

Comments

1) *Purpose of this bill.* According to the author:

> Overdraft fees are disproportionately borne by consumers who are least able to afford these oppressive charges: workers with volatile incomes, parents of young children, and Millennials and Gen Z adults. These fees are also highly concentrated with less than 9% of consumer accounts paying 10 or more overdrafts per year, accounting for nearly 80% of all overdraft revenue generated by financial institutions.
>
> California policymakers and the public deserve more transparency about the overdraft practices at financial institutions under the state's oversight. This bill will provide better information about overdraft practices that will inform future policy efforts to reduce the burden of high fees on vulnerable consumers.

2) *Overdraft Fee*

Consumers incur an overdraft fee when they initiate a debit transaction (e.g., use a check or debit card to make a payment) that exceeds their account balance, assuming that the account provided by their depository institution offers overdraft clearing.[1] If the account does not offer overdraft clearing or if the depository institution decides to reject the payment, the consumer will often be charged a non-sufficient fund (NSF) fee. Overdraft and NSF fees charged by large banks are often around $35 per transaction.[2] Given that many overdrafted accounts are brought to positive within one week, overdraft is an expensive form of short-term credit.[3]

Overdraft and NSF fees have been a large source of fee revenue for banks since changes in federal law limiting debit card swipe fees were implemented in

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[1] Overdraft clearing means the bank approves the payment even though the account balance would be negative upon settling the transaction.
[2] Several large banks have recently announced plans to reduce the size of these fees and how these fees are assessed, as discussed in a subsequent section of this analysis.
[3] Research from the Consumer Financial Protection Bureau finds that more than half of overdrafted accounts become positive within three days and 76 percent within one week. See: https://files.consumerfinance.gov/f/201407_cfpb_report_data-point_overdrafts.pdf

2011.[4] The federal government estimates that the overall market revenue from overdraft and NSF fees was $15.47 billion in 2019.[5] These fees make up approximately two-thirds of fee revenue earned on transaction accounts, followed by monthly maintenance fees and ATM fees accounting for the remaining one-third of such revenues. Many consumers enjoy "free" checking accounts because financial institutions recover their costs and generate profits from providing transaction accounts due to the lucrative revenue that flows from overdraft-related fees.

3) *Who Pays Overdraft Fees?*

Most overdraft fees are paid by a small proportion of accountholders. The Consumer Financial Protection Bureau (CFPB) estimates that eight percent of customers incur nearly 75% of all overdraft fees industrywide, and these "frequent overdrafters"[6] paid an average of $380 in overdraft fees annually. Rather than fees that are spread out across a broad swath of accountholders, overdraft fee revenues are heavily concentrated among a small group of high-frequency users.

According to research conducted by Morning Consult, consumers who overdraft are disproportionately millennials, parents and those experiencing income volatility.[7] Nearly half of overdrafters – 47 percent – are parents with children under the age of 18, though this group comprises only 27 percent of the adult population. Younger generations are also more likely to overdraft than older ones, likely due to higher income volatility and a lack of a wealth cushion to smooth out drops in income. By race and ethnicity, Black and Latino consumers are overrepresented in the overdraft population compared to other groups, likely driven by several factors, including the racial wealth gap, the younger age distribution of Black and Latino populations, and differences in income volatility across race and ethnicity.

From an income perspective, the volatility of one's income (i.e., how much income varies from month to month) is a far stronger predictor of whether someone will overdraft than their absolute level of income (i.e., how much income one earns in a year). Consumers earning less than $50,000 per year are only slightly more represented among the population that overdrafts, but

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[4] The federal government exempted financial institutions with assets of less than $10 billion from the cap on swipe fees, meaning that small banks and credit unions that issue debit cards can earn higher transaction-related fees when their customers use debit cards to pay for goods and services than larger banks and credit unions.
[5] https://files.consumerfinance.gov/f/documents/cfpb_overdraft-call_report_2021-12.pdf
[6] Defined as a person that incurs more than ten overdraft fees in a year.
[7] https://morningconsult.com/2022/01/11/overdrafted-underbanked-and-looking-for-new-providers/

consumers who report that their income this month was either lower than or higher than the previous month, rather than steady, are far more likely to overdraft their accounts. The relatively proportional representation of low- to moderate-income earners in the overdraft population is partially explained by the fact that this segment of consumers is more likely than people making over $50,000 to be unbanked and, therefore, unable to overdraft in the first place, but it appears that income volatility presents greater challenges to managing account balances than income level alone.

4) *Overdraft Fees Contribute to Some People Being Unbanked*

Many people who do not currently have a bank account (often referred to as "unbanked") have previously owned an account. According to the Federal Deposit Insurance Corporation (FDIC), half of unbanked households reported having previously owned a bank account in a 2019 survey.[8] This means that there are approximately 3.5 million households nationwide where people once had a bank account, but no longer do. Of these unbanked households that were previously banked, 68% reported being uninterested in ever owning a bank account again.

How do overdraft fees affect a person's desire and ability to have a bank account? One explanation is that overdraft fees negatively affect a person's perception of the value of a bank account. The size of fees and frequency that banks and credit unions assess fees can affect a person's perception of the fairness and transparency of the banking system. The CFPB conducted in-depth interviews with a sample of consumers who experienced overdraft fees.[9] The following quotes from interviewees reflect their attitudes about overdraft and the risk of having a bank account:

- "$35 is a lot of money for a person that doesn't have any."
- "If you are overdrafting, the risk is that you are going to end up with your whole entire deposit being eaten up by overdraft fees."
- "I got tired of my checks being gone before I can spend them."

In addition to affecting attitudes about owning a bank account, overdrafts can effectively disqualify a person from having a bank account at all. If a consumer fails to get their account back to a positive balance, their financial institution can close the account. Many banks and credit unions report account closures to

[8] https://www.fdic.gov/analysis/household-survey/2019report.pdf
[9] https://files.consumerfinance.gov/f/documents/cfpb_consumer-voices-on-overdraft-programs_report_112017.pdf

specialty credit bureaus, like Early Warning Services, that create screening reports on consumers that can be used to deny access to opening accounts. If a consumer has a history of account closures, she may have difficulty finding a financial institution that will provide her an account.

5) *Banks Beginning to Re-Think Overdraft and NSF Fee Policies*

A growing number of large banks have recently announced their plans to reduce the frequency of charging overdraft fees, and some have also committed to significantly reducing the fee that is charged for each overdraft or NSF fee.[10] New leadership at the Consumer Financial Protection Bureau and the Office of the Comptroller of the Currency (the federal regulatory agency that supervises national banks) have publicly commented on their dissatisfaction with the ways banks have assessed overdraft charges and have indicated that their respective regulatory agencies will take action.[11] Likely due to regulatory pressure as well as competitive pressure from fintech companies, several banks have taken significant steps to reform their overdraft policies, for example:

- Bank of America announced that it would cut its overdraft fee from $35 to $10, eliminate NSF fees, and prevent customers from overdrawing their accounts at ATMs and incurring related fees.

- Citi, Ally Financial, and Capital One announced that they would eliminate overdraft and NSF fees altogether, though notably, these banks earn proportionately less overdraft revenue than Bank of America, JP Morgan Chase, and Wells Fargo.

- JP Morgan and Wells Fargo, each of whom earned more than $1 billion in overdraft revenue in 2021, have announced more modest changes to overdraft policies, such as extending grace periods by 24 hours.

6) *What about Smaller Banks and Credit Unions?*

Many small banks and credit unions also charge overdraft and NSF fees, and some smaller institutions are so reliant on these fees that 50% or more of their profits are attributable to overdraft revenue. The Brookings Institute published a report last year that called attention to several of these "overdraft giants," and the report also notes that the public (and possibly even regulators) do not know how many small depository institutions are heavily reliant on revenue from overdraft fees. The report states:

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[10] https://www.cnet.com/personal-finance/banking/these-8-banks-have-eliminated-or-reduced-overdraft-fees/
[11] https://www.natlawreview.com/article/renewed-regulatory-focus-overdraft-practices

> The smallest banks (those with assets totaling less than $1 billion) and most credit unions are not required to report their overdraft fee revenue at all. Researchers and consumer advocates have no idea how reliant they are on overdrafts. Unless bank regulators are asking these questions, the regulators may not know themselves. Regulators need to collect and publicize overdraft data for all banks and credit unions regardless of size.[12]

This bill addresses the oversight gap noted in the Brookings Institute report and will provide legislators, the DFPI, and the public with better information about the overdraft practices of banks and credit unions that are subject to the DFPI's examination authority. The information provided by this reporting requirement may be helpful in considering polices that the state could implement to reduce the burden of overdraft fees on vulnerable consumers.

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

According to the Assembly Appropriations Committee, cost for this bill are minor and absorbable to DFPI.

SUPPORT: (Verified 8/25/22)

California Low-Income Consumer Coalition
Californians for Economic Justice
Center for Responsible Lending
Consumer Federation of California

OPPOSITION: (Verified 8/25/22)

None received

ARGUMENTS IN SUPPORT: A coalition of consumer protection organizations writes in support:

> Overdraft Fees, and non-sufficient funds (NSF) fees, tend to disproportionately burden those individuals who can least afford them, people with little or no money left in their accounts. These individuals may just be scrapping by on unstable gig workers incomes, they may have multiple mouths to feed at home, or may have lost their jobs completely as a result of the pandemic. While these fees may seem relatively small for some individuals, around $35 per transaction, they can become a real burden for those with no other funds. This is especially harmful given the fact that the same individuals often incur

[12] https://www.brookings.edu/opinions/a-few-small-banks-have-become-overdraft-giants/

multiple of these charges a year. $35 per transaction can quickly balloon to $350 dollars after ten charges on one's card, an unsustainable amount for these already struggling consumers…

SB 1415 will ensure that state leaders and the public are fully aware of the prevalence and size of these fees at [small banks and credit unions]. … State regulators can then use this information to help inform future policies in this area, helping ensure that consumers are not unjustly burdened by these fees for the sake of increased profits.

ASSEMBLY FLOOR: 59-3, 8/25/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Stone, Ting, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Megan Dahle, Mathis, Seyarto
NO VOTE RECORDED: Bigelow, Chen, Choi, Cunningham, Davies, Flora, Fong, Gallagher, Gray, Irwin, Kiley, Lackey, Nguyen, Patterson, Salas, Smith, Valladares, Voepel

Prepared by: Bill Herms / B. & F.I. / , Michael Burdick / B. & F.I. /
8/26/22 15:48:05

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

SENATE RULES COMMITTEE SB 1434
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SB 1434
Author: Roth (D), et al.
Amended: 6/20/22
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 12-0, 4/18/22
AYES: Roth, Archuleta, Bates, Becker, Dodd, Eggman, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Melendez, Hurtado

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/19/22
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SENATE FLOOR: 39-0, 5/25/22
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Hertzberg

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

SUBJECT: State Board of Chiropractic Examiners

SOURCE: Author

DIGEST: This bill extends the date for policy committee review of the State Board of Chiropractic Examiners (BCE) by four years, until January 1, 2027, renews the requirement that the BCE report on its fee structure, adjusts various fees, updates the information required to be collected for the registry of licensees created by the BCE, and removes exemptions for licensees to disclose probationary status to patients, as specified.

Assembly Amendments ensure BCE is fiscally solvent by adjusting the fee structure and providing necessary revenue.

ANALYSIS:

Existing law:

1) Establishes the Chiropractic Act, enacted by an initiative measure, which establishes the BCE within the Department of Consumer Affairs (DCA) for the licensing and regulation of chiropractors. (Business and Professions Code (BPC) § 1000)

2) Requires the BCE to be reviewed as if it "were scheduled to be repealed on January 1, 2023." (BPC § 1000 (c))

3) Requires the BCE to compile, publish, and sell "a complete directory of all persons within the state who hold unforfeited and unrevoked certificates to practice chiropractic, and whose certificate in any manner authorizes the treatment of human beings for diseases, injuries, deformities, or any other physical or mental conditions." This directory must contain the following information concerning each licensee:

   a) Name, address, education, and certification information, as specified
   b) The annual report of the board for the prior year.
   c) Information relating to other laws of this state and the United States which the board determines to be of interest to persons licensed to practice chiropractic.
   d) Copies of opinions of the Attorney General relating to the practice of chiropractic.
   e) A copy of the provisions of this chapter and a copy of the act cited in BPC § 1000.

   Each licensee must notify the BCE immediately of each and every change of residence. (BPC § 1001)

4) Sets the amount of regulatory fees necessary to carry out the responsibilities required by the Chiropractic Initiative Act and this chapter are fixed in a specified schedule. (BPC § 1006.5)

5) Requires a chiropractic licensee, while on probation pursuant to a probationary order made on and after July 1, 2019, to provide to a patient or the patient's guardian or health care surrogate before the patient's first visit following the probationary order a separate disclosure that includes "the licensee's probation

status, the length of the probation, the probation end date, all practice restrictions placed on the licensee by the board, the board's telephone number, and an explanation of how the patient can find further information on the licensee's probation on the licensee's profile page on the board's online license information Internet Web site." A licensee is exempt from providing this disclosure if any of the following applies:

a) The patient is unconscious or otherwise unable to comprehend the disclosure and sign the copy of the disclosure pursuant to subdivision (b) and a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the copy.
b) The visit occurs in an emergency room or an urgent care facility or the visit is unscheduled, including consultations in inpatient facilities.
c) The licensee who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit.
d) The licensee does not have a direct treatment relationship with the patient. (BPC § 1007)

This bill:

1) Requires the BCE to be subject to policy committee review by January 1, 2027.

2) Requires the BCE directory of licensees to include the telephone numbers and emails of licensees, and requires a licensee to report immediately any change in residence or contact information, as specified.

3) Lowers and increases various BCE licensing and disciplinary fees, and allows the BCE to set lower fees in regulation.

4) Requires the BCE to provide an update on the status of the Board's license fee structure and whether the board needs to consider plans for restructuring its license fees by January 1, 2027.

5) Removes certain exemptions for licensees to disclose probationary status to patients. Specifically, licensees on probation pursuant to a probationary order from the Board will no longer be exempt from providing disclosures to patients regarding the licensee's probationary status in the following conditions:

a) The visit occurs in an urgent care facility or the visit is unscheduled, including consultations in inpatient facilities.

b) The licensee who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit.

Background

Oversight Hearings and Sunset Review of Licensing Boards and Programs. In early 2022, the Senate Business, Professions and Economic Development Committee and the Assembly Committee on Business and Professions (Committees) began their comprehensive sunset review oversight of 10 regulatory entities including the BCE. The Committees conducted three oversight hearings in March of this year. This bill and the accompanying sunset bills are intended to implement legislative changes as recommended by staff of the Committees and which are reflected in the Background Papers prepared by Committee staff for each agency and program reviewed this year. The BCE was last reviewed as part of the sunset review program in 2017, and received a four-year extension at that time. Due to the constraints of the COVID-19 pandemic on legislative business, the legislature extended the BCE's sunset date, by one year, in order to allow for a comprehensive review.

Background of the State Board of Chiropractic Examiners (BCE). The BCE (or "the Board") was created on December 21, 1922, through an initiative measure approved by the electors of California on November 7, 1922. BCE regulates the chiropractic profession in California, with its primary mission being that of consumer safety. BCE provides licensure for chiropractic professionals and businesses, and establishes continuing education requirements for licensees. In addition, the BCE proposes regulations, policies, and standards to ensure compliance with chiropractic laws and regulations. The Board protects Californians from both licensed and unlicensed individuals who engage in the fraudulent, negligent, or incompetent practice of chiropractic. BCE oversees approximately 12,500 licensees from 18 chiropractic schools and colleges located throughout the United States and one in Canada. The BCE was last reviewed in 2017.

Review of the BCE. The following are some of the issues pertaining to the BCE that were raised during the sunset review process along with background information concerning these particular issues.

a) *Issue 14: Legislative Oversight Review Extension for the BCE. Background.* The BCE is currently set to be reviewed as if it were scheduled to be repealed on January 1, 2023. The Committees conducted an oversight hearing of the BCE in March of 2022.

Recommendation and Proposed Statutory Change. The Committees recommended extension of the BCE oversight review date. Accordingly, this bill will require the BCE to be subject to policy committee review by January 1, 2027.

b) *Issue 4: Licensing and Regulatory Fee Restructuring.*

Background. The BCE budget is funded exclusively by the profession through licensing and other regulatory fees. The BCE's current budget is currently imbalanced, as operating costs are exceeding annual revenue and according to the BCE"s budget projections is at risk of insolvency in FY 2023/24. The BCE contracted with Matrix Consulting Group to complete a fee audit study in 2021 and found that the BCE is under-recovering costs by approximately $1.4 million. The BCE reports that it is working with the DCA's Budget Office to develop a final proposed fee schedule that will equitably distribute BCE's operational costs between applicants, licensees, and Continuing Education providers based on their utilization of BCE's services and provide long-term stability for BCE's fund. The BCE states that it will review and vote on the final fee proposal during its May 20th, 2022 meeting.

Recommendation and Proposed Statutory Change. The Committees requested an update from the BCE on proposed increases to licensing and regulatory fees. The Committees requested the BCE to work with the DCA to assess proposed changes to licensing and regulatory fee restructuring.

c) *Issue 11: Probationary Status Disclosures.*

Background. BPC § 1007 requires licensees placed on probation on or after July 1, 2019, to provide a separate disclosure regarding the licensee's probation status and to obtain a signed copy of that disclosure from the patient, or the patient's guardian or health care surrogate, except under the following conditions:

- The patient is unconscious or otherwise unable to comprehend the disclosure and sign the copy of the disclosure and a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the copy.
- The visit occurs in an emergency room or an urgent care facility or the visit is unscheduled, including consultations in inpatient facilities.
- The licensee who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit.

- The licensee does not have a direct treatment relationship with the patient.

BCE's Enforcement Unit conducts intake interview sessions with each licensee placed on probation to ensure they understand and will comply with the terms and conditions of their probation. Since this notification requirement became effective, BCE staff report consistent questions from probationers related to the exemptions for "unscheduled visits" and when "the licensee is not known to the patient until immediately prior to the start of the visit," presumably in an attempt to find an avenue to circumvent this important patient notification requirement. These two scenarios – unplanned visits and an unknown licensee providing treatment – illustrate situations where it is important that patients be informed of the licensee's probationary status by the licensee, as the patients may not have had the opportunity to independently research the licensee's background using BCE's license search system prior to the visit.

Removing these two exemptions from BPC § 1007, subdivision (c), will further protect the health, welfare, and safety of California chiropractic patients by ensuring they are properly notified of a licensee's probationary status and can make informed decisions prior to receiving chiropractic care.

Recommendation and Proposed Statutory Change. The Background Paper recommended removal of the specified exemptions from BPC § 1007, subdivision (c), regarding disclosures of probationary status to patients for unscheduled visits and when the licensee is not known to the patient until immediately prior to the start of the visit. The Committees requested the BCE to discuss any additional measures to improve transparency to patients regarding licensees' probationary status.

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

According to the Assembly Appropriations Committee, "The fees added in this bill will provide the Board a $500,000 increase in annual revenue and the ability to generate up to $1.9 million in additional revenue by raising the license renewal fee by regulation. The proposed fees will align the Board's current services with actual cost, provide enough money to pay back the loan to the Bureau of Automotive and Repair and build a reserve."

SUPPORT: (Verified 8/22/22)

Board of Chiropractic Examiners

OPPOSITION: (Verified 8/22/22)

None received

ARGUMENTS IN SUPPORT: The Board of Chiropractic Examiners writes in support and notes that "As a special fund entity, the Board's annual budget is funded exclusively by the chiropractic profession through licensing and regulatory fees. The Board's current fee levels were based on 2017 cost assumptions and did not account for future growth, repayment of an outstanding interagency loan, or the unanticipated and substantial rate increase for legal services provided by the Attorney General's Office for the Board's disciplinary cases. As a result, the Board's increasing operating and enforcement costs continue to outpace the annual revenue received through its fees and without an increase in revenue, the Board's fund is projected to become insolvent by fiscal year 2023-24.

In 2021, the Board contracted with a consulting firm to conduct a fee analysis and develop recommended fee levels based on the Board's actual workload and expenditures, while also accounting for future growth and other factors not considered in 2017. The conclusion of this study was the Board is under-recovering its costs by approximately $1.4 million per year.

The inclusion of an updated fee schedule in this bill realigns the Board's fees with the actual costs associated with providing specific services, equitably distributes the Board's operational costs between applicants, licensees, and continuing education providers based on their utilization of the Board's services, and provides long-term stability for the Board's fund.

This bill also strengthens consumer protection by ensuring chiropractic patients in California are properly notified of a licensee's probationary status and can make informed decisions prior to receiving care.

Under current law, licensees placed on probation by the Board on or after July 1, 2019, must notify their patients of their probationary status and obtain a signed copy of that disclosure before the patient's first visit. However, this requirement does not apply to "unscheduled visits" or circumstances where "the licensee is not known to the patient until immediately prior to the start of the visit."

The Board finds this troubling, as these two scenarios – unplanned visits and/or an unknown licensee providing treatment – illustrate situations where it is imperative that patients be informed of the licensee's probationary status directly by the licensee, as they may not have had the opportunity to utilize the Board's license search system to independently research the licensee's background on their own

prior to the visit. This bill would remove these two problematic exemptions and significantly enhance this important patient notification requirement."

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

Prepared by: Hannah Frye / B., P. & E.D. /
8/22/22 19:59:44

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

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UNFINISHED BUSINESS

Bill No: SB 1436
Author: Roth (D), et al.
Amended: 6/21/22
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 12-0, 4/18/22
AYES: Roth, Archuleta, Bates, Becker, Dodd, Eggman, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Melendez, Hurtado

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/19/22
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SENATE FLOOR: 37-0, 5/24/22
AYES: Allen, Atkins, Bates, Becker, Borgeas, Bradford, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Archuleta, Caballero, Hertzberg

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

SUBJECT: Respiratory therapy

SOURCE: Author

DIGEST: This bill extends until January 1, 2027, the provisions establishing the Respiratory Care Board (Board), revises mandatory reporting requirements, and permits licensed vocational nurses (LVNs) to perform specified respiratory care services.

Assembly Amendments make conforming changes related to LNVs providing specified services including specifying those that do not require a respiratory assessment and only require manual, technical skills, or data collection.

ANALYSIS:

1) Establishes the Respiratory Care Board of California (Board) to administer and enforce the Respiratory Care Practice Act (Act) until January 1, 2023. (Business and Professions Code (BPC) §§ 3700 and 3710)

2) Defines "respiratory care" as a health care profession performed under the supervision of a medical director in the therapy, management, rehabilitation, diagnostic evaluation, and care of patients with deficiencies and abnormalities which affect the pulmonary system and associated aspects of cardiopulmonary and other systems functions. (BPC § 3702)

3) Specifies activities that are not prohibited by the Respiratory Care Act including:

    a) The performance of respiratory care that is an integral part of the program of study by students enrolled in approved respiratory therapy training programs;

    b) Self-care by the patient or the gratuitous care by a friend or member of the family who does not represent or hold himself or herself out to be a respiratory care practitioner;

    c) The respiratory care practitioner from performing advances in the art and techniques of respiratory care learned through formal or specialized training;

    d) The performance of respiratory care in an emergency situation by paramedical personnel who have been formally trained in these modalities and are duly licensed;

    e) Respiratory care services in case of an emergency; "emergency" includes an epidemic or public disaster;

    f) Persons from engaging in cardiopulmonary research;

    g) Formally trained licensees and staff of child day care facilities from administering to a child inhaled medication; and

    f) The performance by a person employed by a home medical device retail facility or by a home health agency licensed by the State Department of

Health Services of specific, limited, and basic respiratory care or respiratory care related services that have been authorized by the Board. (BPC § 3765)

4) Requires any employer of a Respiratory Care Practitioner (RCP) to report to the Board the suspension or termination for cause. (BPC § 3758 (a))

This bill:

1) Extends the sunset date of the Board until January 1, 2027.

2) Adds leave and resignation to the list of mandated reporting requirements for a RCP employer. Defines "leave, resignation, suspension, or termination for cause" any administrative leave, employee leave, resignation, suspension, or termination from employment for any of the following reasons:

   a) Suspected or actual use of controlled substances or alcohol to such an extent that it impairs the ability to safely practice respiratory care.

   b) Suspected or actual unlawful sale of controlled substances or other prescription items.

   c) Suspected or actual patient neglect, physical harm to a patient, or sexual contact with a patient.

   d) Suspected or actual falsification of medical records.

   e) Suspected or actual gross incompetence or negligence.

   f) Suspected or actual theft from patients, other employees, or the employer.

3) Requires an owner, director, partner, or manager of a registry or agency that places one or more RCPs to report to the Board if either of the following apply:

   a) The owner, director, partner, or manager is aware that a RCP is no longer employed at the facility they were placed at by the registry or agency for any behavior outlined in 2); or

   b) The owner, director, partner, or manager is asked to place the RCP on a "do not call" list or other status indicating the facility does not want that practitioner placed at their facility for any behavior outlined in 2).

4) Allows LVNs who have received training satisfactory to their employer, and when directed by a physician and surgeon, to perform basic respiratory tasks and services that do not require a respiratory assessment and only require manual, technical skills, or data collection.

5) Allows LVNs employed by a home health agency to perform respiratory tasks and services identified by the Board, if the LVN complies with the following:

   a) Before January 1, 2025, the licensed vocational nurse has completed patient-specific training satisfactory to their employer

   b) On or after January 1, 2025, the licensed vocational nurse has completed patient-specific training by the employer in accordance with guidelines that shall be promulgated by the board no later than January 1, 2025, in collaboration with the Board of Vocational Nursing and Psychiatric Technicians of the State of California.

Background

In early 2022, the Senate Business, Professions and Economic Development Committee and the Assembly Committee on Business and Professions (Committees) began their comprehensive sunset review oversight of 10 regulatory entities including the Board. The Committees conducted three oversight hearings in March of this year. This bill and the accompanying sunset bills are intended to implement legislative changes as recommended by staff of the Committees and which are reflected in the Background Papers prepared by Committee staff for each agency and program reviewed this year.

RCPs were established in 1982 and were originally licensed by Respiratory Care Examining Committee and has since become the Board. The Board is within the DCA. The Board is tasked with oversight of all RCPs including initial licensure, renewal, and discipline for violations of the Respiratory Care Practice Act.

RCPs work bedside with patients and under the director of a medical director and specialize in providing evaluation of, and treatment to, patients with breathing difficulties as a result of heart, lung, and other disorders, as well as providing diagnostic, educational, and rehabilitation services. RCPs are utilized in virtually all health care settings. RCPs provide services to patients ranging from premature infants to older adults. RCPs provide treatments for patients who have breathing difficulties and care for those who are dependent upon life support and cannot breathe on their own. RCPs treat patients with acute and chronic diseases including

chronic obstructive pulmonary disease (COPD), trauma victims, and surgery patients. Common RCP patients include individuals suffering from:

- Asthma
- Bronchitis.
- Heart attack.
- Cystic fibrosis.
- Emphysema.
- Stroke.
- Lung cancer.
- Premature infants and infants with birth defects.
- High-risk influenza/COVID-19.

The following are some of the issues pertaining to the Board along with background information concerning the particular issue. Recommendations were made by Committee staff regarding the particular issue areas that needed to be addressed.

Issue 6: Mandatory Reporting Requirements. RCPs are not reported by facilities in instances where they were advised to resign instead of face termination. Facilities rightfully claim they do not have to report RCPs who were employed by registries. Instead, facilities using registry employees notify the registry that they do not want the employee assigned to their facility ever again. And while in most instances the registry is made aware of the reason the facility refuses assignments by certain RCPs, the registry (nor the facility) is obligated to inform the Board, even in those cases of serious violations as outlined in BPC Section 3758. As a result of this gap within mandatory reporting, RCPs are able to continue to work without discipline. This bill updates required reporting requirements for a RCP by including leave and resignation to the list of mandated reporting requirements for a RCP employer.

Issue 5: Ventilator Care. Dating back to May 1, 1996, LVNs and RCPs have struggled to determine the appropriate scope of practice for administering respiratory services such as managing patients. The Board contends LVNs should not be administering any ventilator services. The BVNPT issued guidance to licensees permitting LVNs to adjust ventilator settings and the Board has maintained this guidance to LVNs is a misinterpretation of the regulations. BVNPT has cited CCR 2518.5 for the basis of allowing LVNs to manage ventilator patients. CCR 2518.5 specifies LVNs can use and practice basic assessment, participate in planning, execute interventions in accordance with the care plan or treatment plan, and contribute to evaluation of individualized

interventions related to the care plan or treatment plan. An LVN may also administer medications. In a legal opinion from the Attorney General's office, a Deputy Attorney General wrote,

"*'Basic assessment or data collection' does not anticipate the independent assessment of breath sounds and is therefore outside [the] scope of practice of an LVN. Clearly respiratory care therapist[s] can interpret breath sounds in the scope of their practice under Business and Professions Code section 3702...." "While a respiratory care therapist and a physician can assess a patient's respiratory status and alter the ventilator setting, in my opinion, an LVN who does so acts outside their scope of practice"*

The Board has made numerous requests throughout the last 25 years to rescind the policy, but BVNPT has not revoked any policy regarding respiratory services and continues to take the position that LVNs should be able to adjust ventilators. Currently, LVNs are required to take 1,530 hours for including theory, clinical, and pharmacology. LVNs' required theory courses do not include respiratory care. RCPs must complete a respiratory care program approved by the Board. The respiratory care Board has the expertise to determine an acceptable program to ensure patient safety.

The two boards began to work collaboratively in 2019 and issued a joint statement clarifying RCP and LVN roles relating to patient care on mechanical ventilators. After feedback from various types of facilities and organizations, there was expressed desire to further clarify its respective regulations regarding patient care. The boards hosted a stakeholder meeting to further discuss the joint statement and concerns grew about expanding places LVNs can conduct ventilator services to home based settings as well. The July 2019 published agreement state that both boards agreed BPC 3702.7 provides that the education of health care professional about respiratory care, including clinical instruction and the operation or application of respiratory care equipment and application is within the respiratory care scope of practice and would require licensure as an RCP. The statement further laid out permissible functions an LVN cannot perform. The joint statement allowed clarity for licensees and providers. However, according to the Board, BVNPT backed out of the agreement and began exploring CE to train LVNs to perform ventilator services in more settings. Without the agreement, LVNs are not permitted to perform any respiratory services. The Board has asked the Legislature to step in and clarify what services a LVN may or may perform. As COVID-19 showed, quality respiratory services are vital for patients and access is imperative. As such, permitting LVNs to perform basic respiratory services while maintaining

appropriate training for LVNs is appropriate. As outlined above, the Board is most equipped to ensure training is appropriate while BVNPT maintains collaboration given their expertise in nursing duties and functions.

Issue 9: Impacts of the COVID-19 Pandemic. In March 2020, Governor Newsom issued an emergency proclamation allowing Departments to waive statutory requirements to help ease worker shortages and aid COVID-19 recovery efforts. Early on during the state of emergency, the Board identified statutory fixes that could help in this current state of emergency and future state of emergency. Current law is vague and states that the Act does not respiratory care services in the case of emergency. This language is vague and could be expanded and clarified to be more nimble for future emergencies.

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

According to the Assembly Appropriations Committee, this bill will result in costs of approximately $4.8 million annually and ongoing.

SUPPORT: (Verified 8/22/22)

California Society for Respiratory Care
Respiratory Care Board of California

OPPOSITION: (Verified 8/22/22)

None received

ARGUMENTS IN SUPPORT: The California Society for Respiratory Care writes in support of this bill: "Respiratory Care Practitioners (RCPs), also known as Respiratory Therapists, work with vulnerable patient populations, from infants to the elderly. RCPs have specialized training in cardiology and pulmonology. They work with patients in intensive care units, operating rooms, laboratories, outpatient clinics, sleep clinics, and home-health environments - even in helicopters transporting critically ill patients – managing the patient's airway. Most recently, RCPs work on the front lines battling COVID 19 for patients struggling to breathe."

ASSEMBLY FLOOR: 76-0, 8/22/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Flora, Mike

Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Bigelow, Davies, Levine, Voepel

Prepared by: Alexandria Smith Davis / B., P. & E.D. /
8/22/22 19:59:46

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

SENATE RULES COMMITTEE SB 1438
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UNFINISHED BUSINESS

Bill No: SB 1438
Author: Roth (D), et al.
Amended: 6/29/22
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 13-0, 4/18/22
AYES: Roth, Archuleta, Bates, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/19/22
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SENATE FLOOR: 39-0, 5/25/22
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Hertzberg

ASSEMBLY FLOOR: 77-0, 8/22/22 - See last page for vote

SUBJECT: Physical Therapy Board of California

SOURCE: Author

DIGEST: This bill extends the sunset date of the Physical Therapy Board of California (PTBC) by four years from January 1, 2023, to January 1, 2027.

Assembly Amendments authorize a physician and surgeon or podiatrist to conduct either an in-person or telehealth patient examination and evaluation of the patient's condition in connection with their approval of the physical therapist's plan of care.

ANALYSIS:

Existing law:

1) Establishes the Physical Therapy Law, which provides for the licensing and regulation of physical therapy professionals by the PTBC, under the jurisdiction of the Department of Consumer Affairs (DCA) and sunsets the PTBC on January 1, 2023. (Business and Professions Code (BPC § 2600 et seq.)

2) Authorizes the PTBC to employ an Executive Officer (EO) and may also employ investigators, legal counsel, physical therapist consultants, and other assistance as it may deem necessary and sunsets that authority on January 1, 2023. (BPC § 2607.5)

3) States that protection of the public is the highest priority for the PTBC in exercising its licensing, regulatory, and disciplinary functions, as specified. (BPC § 2602.1)

This bill:

1) Extends the sunset date of the PTBC until January 1, 2027.

2) Authorizes a physician and surgeon or podiatrist to conduct either an in-person or telehealth patient examination and evaluation of the patient's condition in connection with their approval of the physical therapist's plan of care.

Background

Oversight Hearings and Sunset Review of Licensing Boards and Programs. In early 2022, the Senate Business, Professions and Economic Development Committee and the Assembly Committee on Business and Professions (Committees) began their comprehensive sunset review oversight of 10 regulatory entities including the Board. The Committees conducted three oversight hearings in March of this year. This bill and the accompanying sunset bills are intended to implement legislative changes as recommended by staff of the Committees and which are reflected in the Background Papers prepared by Committee staff for each agency and program reviewed this year.

PTBC. The purpose of the PTBC is to protect consumers from incompetent, unprofessional, and fraudulent practice through regulation of practitioners. The PTBC also establishes and clarifies state-specific process and practice standards through administrative rulemaking. The laws governing the practice of licensed PTs and PTAs and the administration of the PTBC are specified in statute in the

BPC Section 2600 et seq. and in California Code of Regulations (CCR) 16 Section 13.2. Currently, the Physical Therapy Act (Act) provides the duties of the PTBC defines the physical therapy scope of practice, and specifies the licensing requirements, fees, and penalties for violations of the Act, including unlicensed practice. The Act makes it unlawful to practice, offer to practice, physical therapy for compensation, or claim to be a physical therapist unless licensed by the PTBC. As of Fiscal Year (FY) 2020/2021, the PTBC regulates approximately 27,990 PTs and 7,833 PTAs.

Generally, PTs provide services to individuals and diverse populations, across the lifespan, to develop, maintain and restore movement to maximize functional ability. This includes circumstances where movement and function are impacted by aging, injury, diseases, disorders, conditions or environmental factors. PTs practice independently of other health care providers and also within interdisciplinary rehabilitation/habilitation programs, aiming to prevent movement disorders or maintain/restore optimal function and quality of life.

Review of PTBC. The following are some of the issues pertaining to the Board along with background information concerning the particular issue. Recommendations were made by Committee staff regarding the particular issue areas that needed to be addressed.

a) Issue 9: Impacts of the COVID-19 Pandemic

Background: An executive order in 2020 in response to the COVID-19 pandemic gave DCA the authority to waive any statutory or regulatory professional licensing relating to healing arts during the duration of the COVID-19 pandemic – including rules relating to examination, education, experience, and training. One of these waivers temporarily waived the requirement for a licensed physician and surgeon or podiatrist, as applicable, to conduct an in-person patient examination and evaluation, subject to the condition that the examination and evaluation must be performed via appropriate electronic means. This waiver terminated December 31, 2021.

Recommendation and Proposed Statutory Change. The Background Paper suggested that the PTBC should update the Committees on the impact to licensees and patients stemming from the pandemic. It also suggested the Board should discuss the impact of waivers on patient safety and note any statutory changes that are warranted as a result of the pandemic. As a result, the bill authorizes a physician and surgeon or podiatrist to conduct either an in-person or telehealth patient examination and evaluation of the

patient's condition in connection with their approval of the physical therapist's plan of care.

b) *Issue 11: Continuation of the PTBC*

Background: The welfare of consumers is best protected when there is a well-regulated physical therapy profession. Despite some of the issues impacting the PTBC, including but not limited to budget, staffing levels, COVID-19 clean-up, and enforcement timeline issues, the PTBC should be continued.

Recommendation and Proposed Statutory Change. The Background Paper suggested that physical therapists, physical therapist assistants, and unlicensed physical therapy aides should continue to be regulated by PTBC and PTBC should be reviewed again on a future date to be determined. As a result, this bill extends various sunset dates by four years.

Comments

Interested parties. The Animal Physical Therapy Coalition (APTC) writes that they support this bill if it is amended: "The issue of animal physical therapy (APT) by a PT with advanced training has been discussed and debated for nearly 15 years… APTC asks SB 1438 be amended to…authorize a California Licensed Physical Therapist with advanced certification in Animal Physical Therapy to provide animal physical rehabilitation under the degree of supervision to be determined by the veterinarian who has established a veterinarian-client-patient relationship, on a veterinary premises or an Animal Physical Rehabilitation premises, or a range setting."

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

According to the Assembly Appropriations Committee, the fiscal impact will be $7.3 million per year, ongoing, to support the continued operation of the PTBC's licensing and enforcement activities.

SUPPORT: (Verified 8/22/22)

California Physical Therapy Association
Physical Therapy Board of California

OPPOSITION: (Verified 8/22/22)

None received

ARGUMENTS IN SUPPORT: The California Physical Therapy Association says that PTBC does an excellent and efficient job regulating the profession and providing appropriate consumer protection in the state consistent with the defined statutory scheme and resources collected through licensing fees.

ASSEMBLY FLOOR: 77-0, 8/22/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Davies, Levine

Prepared by: Dana Shaker / B., P. & E.D. /
8/22/22 20:05:15

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

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UNFINISHED BUSINESS

Bill No: SB 1472
Author: Stern (D), et al.
Amended: 6/22/22
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 4/26/22
AYES: Bradford, Ochoa Bogh, Skinner, Wiener
NO VOTE RECORDED: Kamlager

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/19/22
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SENATE FLOOR: 38-0, 5/26/22
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Hertzberg, Jones

ASSEMBLY FLOOR: 77-0, 8/23/22 - See last page for vote

SUBJECT: Vehicular manslaughter: speeding and reckless driving

SOURCE: Author

DIGEST: This bill states that certain behavior can constitute gross negligence for wobbler vehicular manslaughter.

Assembly Amendments clarify that the definition of gross negligence shall be based on the totality of the circumstances.

ANALYSIS:

Existing law:

1) Provides that a person who drives a vehicle upon a highway at a speed greater than 100 miles per hour is guilty of infraction punishable, as follows:

   a) Upon a first conviction by a fine not to exceed $500, plus penalty assessments and the court may suspend the driver's license for up to 30 days.
   b) Upon a second conviction within three years of a prior offense, a fine not to exceed $750, plus penalty assessments, and the driver's license shall be suspended for six months.
   c) Upon a third conviction within five years, a fine of $1,000, plus penalty assessments, and the person's driver's license shall be suspended for one year.(VC §§ 22348 and 13355)

2) Provides that a person who drives a vehicle upon a highway in willful or wanton disregard for the safety of persons or property is guilty of reckless driving and a person who drives a vehicle in an offstreet parking facility, as defined in subdivision (c) of Section 12500, in willful or wanton disregard for the safety of persons or property is guilty of reckless driving. A person convicted of the offense of reckless driving shall be punished by a misdemeanor for not less than five days nor more than 90 days and/or by a fine of not less than $145 nor more than $1,000 plus penalty assessments. (VC §23103)

3) Provides engaging in a motor vehicle speed contest (VC 23109(a)), and provides for punishment of between 24 hours and 90 days imprisonment and/or a fine of between $355 and $1,000 and 40 hours of community service. A driver's license suspension of from 90 days to six months may also be ordered. (VC 23109(e)). The vehicle may be immediately impounded by a peace officer for up to 30 days (VC 23109.2(a)).

4) Prohibits engaging in a motor vehicle exhibition of speed (VC 23109(c)), and provides for punishment by imprisonment of up to 90 days and/or a fine of up to $500 (VC 23109(i)). The vehicle may be immediately impounded by a peace officer for up to 30 days (VC 23109.2(a)).

5) Defines murder as the unlawful killing of a human being, or a fetus, with malice aforethought. (Pen. Code § 187 (a).)

6) Defines malice for this purpose as either express or implied and defines those terms. (Pen. Code § 188.)

   a) It is express when there is manifested a deliberate intention unlawfully to take away the life of a fellow creature.
   b) It is implied, when no considerable provocation appears, or when the circumstances attending the killing show an abandoned and malignant heart.

7) Provides that when it is shown that the killing resulted from an act with express or implied malice, no other mental state need be shown to establish the mental state of malice aforethought. Neither an awareness of the obligation to act within the general body of laws regulating society nor acting despite such awareness is included within the definition of malice. (Pen. Code, § 188.)

8) Provides that manslaughter is the unlawful killing of a human being without malice and is divided into three kinds: voluntary, involuntary and vehicular. (Pen. Code § 192)

9) Provides that vehicular manslaughter is:

   a) Driving a vehicle in the commission of an unlawful act, not amounting to a felony and with gross negligee, or driving a vehicle in the commission of a lawful act which might produce death, in an unlawful manner, and with gross negligence. This is punishable by a wobbler with up to one year in county jail or state prison for two, four, or six years.
   b) Driving a vehicle in the commission of an unlawful act, not amounting to a felony, but with gross negligence; or driving a vehicle in the commission of a lawful act which might produce death, in an unlawful manner, but without gross negligence. This is punishable by imprisonment in the county jail by not more than one year.
   c) Driving a vehicle in connection with faking a vehicle accident or a vehicle accident was knowingly caused for financial gain and proximately resulted in the death of any person. This is punishable by imprisonment in the state prison for four, six or 10 years.
   d) This section shall not be construed as making any homicide in the driving of a vehicle punishable that is not the proximate result of the commission of an unlawful act, not amounting to a felony, or of the commission of a lawful act which might produce death in an unlawful manner. (Pen. Code §§ 192(c) and 193(c))

This bill provides that for the purposes of vehicular manslaughter, "gross negligence" may include but is not limited to any of the following:

1) Participating in a sideshow.
2) An exhibition of speed.
3) Speeding over 100 miles per hour.

Background

In the existing manslaughter section, it expressly states that "gross negligence" does not preclude a charge of murder upon facts exhibiting wantonness and a conscious disregard for life to support a finding of implied malice.

This bill further states that for purposes of this section "gross negligence" may include but is not limited to a number of vehicular violations. The finding of gross negligence could result in a conviction for wobbler vehicular manslaughter.

The included violations are:

1) "Participating in a sideshow."

2) An exhibition of speed.

Being convicted of speeding over 100 miles per hour. Is this always gross negligence?

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

According to the Assembly Appropriations Committee:

> Costs (General Fund (GF)) possibly in the low millions of dollars in increased incarceration costs to the California Department of Corrections and Rehabilitation (CDCR). Vehicular manslaughter with gross negligence is an alternate felony-misdemeanor punishable either by imprisonment in county jail for not more than one year or by imprisonment in state prison for two, four, or six years. Vehicular manslaughter without gross negligence is a misdemeanor punishable by imprisonment in county jail for not more than one year. By expanding the definition of "gross negligence" to include sideshows, speed racing, and speeding over 100 miles an hour, this bill may result in more people being sentenced to state prison that might otherwise have only been sentenced to county jail. For example, speeding over 100 miles an hour resulting in death is not necessarily gross negligence. The average

annual cost to house an inmate in CDCR is approximately $104,000. If this bill results in five people being sentenced to a middle prison term of four years for actions that may have only resulted in a county jail sentence prior to the enactment of this bill, the cost to CDCR would be approximately $2 million.

SUPPORT: (Verified 8/23/22)

California Association of Highway Patrolmen
California Narcotic Officers' Association
City of Paramount
Conor Lynch Foundation
Hang Up and Drive
Liams Life Foundation
Peace Officers Research Association of California
Plumas County Office of Education/unified School District
Southern California Families for Safe Streets
Street Racing Kills
Streets are For Everyone

OPPOSITION: (Verified 8/23/22)

None received

ARGUMENTS IN SUPPORT: The Conor Lynch Foundation supports this bill stating:

> We support SB 1472 which would curb dangerous driving activity and by raising match the penalties for the exhibition of speed, or participating in reckless driving activities including sideshows and street races.
>
> A "motor vehicle speed contest" includes engaging in a motor vehicle race against another vehicle, a clock, or other timing devices. However, many illegal street races stem from "motor vehicle exhibition of speed," which includes burning out tires, revving engines, circling, and other activity intended for an audience or "sideshow" that ultimately leads to a speed contest.
>
> According to the National Highway Traffic Safety Association (NHTSA), most fatal crashes are directly linked to this type of risky driving. While "motor vehicle exhibition of speed" is prohibited, violations do not result in the same penalties as those engaging in a speed contest. AB 3 matches

the penalties for the two dangerous activities and will allow intervention before a fatal or devastating crash occurs.

On October 1st, 2020, the California Highway Patrol launched the Communities Against Racing and Side Shows campaign. This campaign will focus on statewide public awareness campaigns on speed-related crashes and focused enforcement. As illegal street racing becomes a more prevalent problem statewide, the NHTSA has reported that this dangerous activity is often associated with other risky behavior including driving under the influence of drugs or alcohol and driving without a seatbelt.

ASSEMBLY FLOOR: 77-0, 8/23/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Davies, Gray

Prepared by: Mary Kennedy / PUB. S. /
8/23/22 15:17:28

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

SENATE RULES COMMITTEE SB 1487
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UNFINISHED BUSINESS

Bill No: SB 1487
Author: Rubio (D)
Amended: 6/20/22
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 4/27/22
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, McGuire, Pan

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/19/22
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SENATE FLOOR: 39-0, 5/25/22
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Hertzberg

ASSEMBLY FLOOR: 76-0, 8/18/22 - See last page for vote

SUBJECT: Commission on Teacher Credentialing: survey: teacher resignations

SOURCE: Author

DIGEST: This bill requires the Commission on Teacher Credentialing (CTC) and the California Department of Education (CDE) to develop, and local educational agencies (LEAs) to annually administer and report on, a survey of teachers exiting the profession.

Assembly Amendments include CDE in the development of the survey, encourage, rather than require, LEAs to administer the survey and report their results, and specify that the reporting requirement for the CTC and CDE is contingent on an appropriation for that purpose in the annual Budget Act.

ANALYSIS:

Existing law:

1) Establishes the minimum requirements for the preliminary multiple or single subject teaching credential and specialist teaching credential in special education for first time applicants for that credential who are not credentialed in another state, including all of the following:

    a) Completion of a baccalaureate or higher degree, except in professional education, from a regionally accredited college or university.

    b) Satisfaction of basic skills requirements, including passing the California Basic Educational Skills Test (CBEST), the California Subject Examinations for Teachers (CSET), appropriate subject matter examinations, completion of subject-matter course work from the CTC, or CTC-approved professional development.

    c) Completion of a course in the provisions and principles of the U.S. Constitution or pass an examination given by a regionally-accredited college or university.

    d) Completion of a CTC-approved teacher preparation program.

    e) A formal recommendation for the credential by the program sponsor.

2) Requires individuals who complete a professional teacher preparation program and receive a five-year preliminary credential to earn a clear credential by completing one of the following options:

    a) Complete a Commission-approved Teacher Induction Program and submit their application for the clear credential through the Induction program sponsor.

    b) Certification by the National Board of Professional Teaching Standards.

This bill:

1) Requires the CTC and CDE to develop a survey, with input from education stakeholders by July 1, 2023, for purposes of collecting data from teachers of LEAs resigning their positions or electing not to accept a teaching assignment for the upcoming school year, including data on whether or not they are exiting the profession.

2) Encourages LEAs, beginning with the 2023-24 school year, to administer the survey within 15 days of a teacher of the LEA resigning their position or electing not to accept a teaching assignment for the upcoming school year.

3) Encourages LEAs to report the results of the surveys to the CTC annually.

4) Requires the CTC to work with CDE to prepare an annual report that compiles the LEA data, submit the report to the CDE and the Legislature, and post the report on its internet website.

5) Specifies that the reporting requirement for the CTC and CDE is contingent on an appropriation for that purpose in the annual Budget Act or other statute.

Comments

1) *Need for the bill.* According to the author, "Prior to the onset of the pandemic, California has been experiencing a severe teacher shortage with significantly low numbers of educators entering the profession, and high numbers of educators leaving the profession.

   "California's supply of new, credentialed teachers plummeted by nearly 70 percent in the decade from 2001–02 to 2011–12 as the state's education budgets shrank. Today, the State Teachers' Retirement System also confirms the shortage of teachers by reporting a surge of an increase of more than 25 percent of retirements within the first half of 2020 than the previous year. The retirements, combined with a severe shortage in substitutes, led to an unprecedented shortage in teachers. Some schools have been closing as a result of these teaching positions not being filled. Schools are currently grappling with higher than normal teacher vacancies, leaving remaining teachers overworked.

   "Furthermore, on top of teacher vacancies, schools are experiencing food supply shortages, and are having trouble finding enough bus drivers, janitors, and other support staff. The administration and data collection on why teachers are leaving the profession will only help further prepare the needs of future students and educators."

2) *Learning Policy Institute (LPI) report.* The LPI's 2016 report, "Addressing California's Emerging Teacher Shortage: An Analysis of Sources and Solutions" included the following summary: "After many years of teacher layoffs in California, school districts around the state are hiring again. With the influx of new K-12 funding, districts are looking to lower student-teacher ratios and reinstate classes and programs that were reduced or eliminated during the Great Recession. However, mounting evidence indicates that teacher supply

has not kept pace with the increased demand." The report included the following findings:

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

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

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

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

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

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

4) *The California School Staff Survey.* The California School Climate, Health, and Learning Surveys (Cal-SCHLS) system is the most comprehensive effort in the nation to regularly assess students, staff, and parents at the local level to provide key data on school climate and safety, learning supports and barriers, and stakeholder engagement, as well as youth development, health, and well-being. The Cal-SCHLS system is a collection of three surveys—the California School

Staff Survey (CSSS), the California Healthy Kids Survey (CHKS), and the California School Parent Survey (CSPS).

The CSSS was developed for CDE by WestEd in 2004, to fulfill the requirement in the No Child Left Behind Act of 2001, Title IV, that schools conduct an anonymous teacher survey related to student drug use and violence. Recognizing the opportunity this requirement presented, CDE expanded the content to collect other data to guide school improvement efforts and to meet LCAP state priorities. Schools can also add questions of their own choosing to meet other local data needs. Because the results are anonymous and confidential, the survey provides staff with an opportunity to honestly communicate their perceptions about the school.

Schools are provided with detailed survey planning and administration instructions. CDE guidelines call for the CSSS to be administered online at the same time as the CHKS, among all staff in grades 5 and above. Staff participation is totally voluntary, anonymous, and confidential.

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

According to the Assembly Appropriations Committee:

1) Ongoing special fund costs to CTC of about $160,000 annually, and additional one-time special fund costs of $160,000 in the first year to comply with this measure.

2) Ongoing General Fund costs to CDE of about $150,000 annually, and additional one-time General Fund costs of $50,000 in the first two years to comply with this measure.

SUPPORT: (Verified 8/19/22)

California Commission on Teacher Credentialing
California School Boards Association
California Teachers Association
State Superintendent of Public Instruction
Teach Plus

OPPOSITION: (Verified 8/19/22)

None received

ASSEMBLY FLOOR: 76-0, 8/18/22
AYES: Aguiar-Curry, Alvarez, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Chen, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Rendon
NO VOTE RECORDED: Arambula, Cervantes, Choi, Wood

Prepared by: Ian Johnson / ED. / (916) 651-4105
8/19/22 13:27:16

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

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UNFINISHED BUSINESS

Bill No: SB 1489
Author: Committee on Governance and Finance
Amended: 6/20/22
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 4/20/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE HOUSING COMMITTEE: 9-0, 4/27/22
AYES: Wiener, Bates, Caballero, Cortese, McGuire, Ochoa Bogh, Skinner, Umberg, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 35-0, 5/12/22 (Consent)
AYES: Allen, Atkins, Becker, Borgeas, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Archuleta, Bates, Dahle, Grove, Min

ASSEMBLY FLOOR: 76-0, 8/11/22 (Consent) - See last page for vote

SUBJECT: Local Government Omnibus Act of 2022

SOURCE: Author

DIGEST: This bill makes several minor changes to state laws governing local governments' powers and duties.

Assembly Amendments make additional minor changes.

ANALYSIS: This bill, the "Local Government Omnibus Act of 2022," makes the following changes to the state laws affecting local agencies' powers and duties:

1) *County recorder survey maps*. County recorders accept and officially record legal documents, notices, or papers, including survey maps for various purposes. State law requires that a record of survey filed with a county recorder must be securely fastened into a suitable book provided for that purpose. The County Recorders Association of California notes that this requirement does not conform to modern best practices for storing recorded maps. SB 1489 removes the requirement for recorded maps to be stored in physical books and allows a county recorder to store recorded maps in any manner that assures the maps will be kept safe, reproducible, and together. [See SEC. 2, 6, 7, 17, 18, 19, 20, 23, 24, and 25 of the bill.]

2) *Mono County Public Administrator*. State law establishes various county offices, including the public administrator, who is responsible for administering the estate of a county resident who dies. Public administrators are elected positions, but the Board of Supervisors in 16 counties are authorized under law to appoint a public administrator. In addition, boards in 12 counties can have a joint public guardian and public administrator. Finally, 10 counties may separate the public guardian and district attorney offices. Mono County notes that the elected office of public administrator has been consolidated by ordinance with the elected office of district attorney since before 1947, and thus those duties could not be, and were not, transferred away from the district attorney, despite the role and duties of the public administrator being civil in nature. SB 1489 allows Mono County to consolidate the public administrator and the public guardian as an appointed official and to separate the district attorney and public administrator. [See SEC. 3 and 23.]

3) *County Auditor qualifications.* State law creates and specifies the duties of 23 county officers, including a county auditor. The auditor is the chief county fiscal officer and, among other duties, prepares the county budget, examines the books of the county treasurer and various departments, and authorizes expenditures by warrants. In 1995, the Legislature updated the qualifications to be a county auditor to reflect the changes in education programs and desire of county auditors to professionalize their office. The State Association of County Auditors notes that one of the potential ways of qualifying to be a county auditor references a section of law that was repealed by its own terms on January 1, 2010. This bill clarifies the cross reference such that it refers to the section as it read on December 31, 2009. [See SEC. 4.]

4) *Reading of ordinances*. Current law establishes certain procedural requirements for city ordinances to become law. Most ordinances must be introduced for five days before being passed and must be passed at a regular meeting or an adjourned regular meeting; urgency ordinances don't have to abide by these rules. All ordinances must be read in full either at the time of introduction or passage, unless the City Council waives further reading after the title is read. Regardless, the titles of city ordinances must always be read. The City of Chino Hills notes that this requirement to read the title of an ordinance is obsolete and inefficient at a time when the title of the ordinance is listed in the agenda, in full compliance with the state's open meetings laws, and the full text of the ordinance is typically made available online or in print prior to the introduction or passage of the ordinance. The City also notes that the 2020 Local Government Omnibus Bill (SB 1473, Committee on Governance and Finance, Chapter 371) repealed a similar requirement for county ordinance titles to be read, so long as the title was included on the published agenda and a copy of the full ordinance is made available to the public online and in print at the meeting before introduction or passage. SB 1489 extends identical authority to city councils to waive reading of titles under the same conditions. [See SEC. 5.]

5) *Forward settlement of investments*. County treasurers must abide by the statutory requirements to invest excess funds in this order of priority: (a) safety, (b) liquidity, and (c) yield. In order to limit risk, the Government Code places limitations on the term or remaining maturity of authorized investments. However, counties do not take possession of purchased investments until settlement date. When local agencies purchase securities, the date they make the purchase and the date the purchase is settled (and goes onto the agency's books) aren't always the same. Additionally, the Government Code does not specify how the term or remaining maturity is calculated. The California Association of County Treasurers and Tax Collectors notes that in some cases, the procedures around finalizing these investments can take up to 30 or 45 days to "settle" after the initial trade or investment date. For new five-year securities, the settlement date can take up to two months, extending the term of the investment beyond five years, which the Government Code doesn't allow without Board of Supervisors approval. Due to the industry standardized settlement procedures involved in investing, counties are precluded from investing in certain investments with codified maximum term limits because of the extra days it takes for these transactions to settle. SB 1489 adjusts the terminology in the statute to reflect the true "start" of the investment term by allowing for forward settlement. In addition, the bill adds a limitation on forward settlement of 45 days. [See SEC. 8 and 9.]

6) *Submission of quarterly treasury reports*. State law provides that treasurer or chief fiscal officer may render a quarterly report to the chief executive officer, the internal auditor, and the city council or board of supervisors. If remitted, it must be submitted within 30 days following the end of a quarter. The California Association of County Treasurers and Tax Collectors notes that some treasurer-tax collectors continue to have challenges meeting the 30 day deadline and that accounting and investment systems can take up to 10 business days to post quarter-end entries and the board is sometimes dark at the end of the month. The association further notes that given the two-week lead time required to get a report on the board calendar, staff must often request exemptions from county procedures to meet code mandates. SB 1489 increases the time allowed to file a quarterly report by 15 days, from 30 to 45, following the end of the quarter. [See SEC. 10.]

7) *Williamson Act contract rescission for solar-use easements*. The California Land Conservation Act of 1965, also known as the Williamson Act (WA), allows a landowner to voluntarily enter into an agricultural land preservation contract with a city or county for a minimum of 10 years. In exchange for restricting the use of their land, property owners pay lower taxes as a result of their land's lower assessed value. In 2011, the Legislature allowed a property owner and a city or county to mutually agree to rescind the WA contract on marginally productive or physically impaired land to enter a solar-use easement contract, upon payment of a rescission fee, which was remitted to the state's General Fund (SB 618, Wolk, Chapter 596). In 2014, the Legislature revised the fee structure such that fees were increased but split evenly between the state and the county until January 1, 2020 (AB 2241, Eggman, Chapter 582). The Rural County Representatives of California notes that the sunset on AB 2241 inadvertently sunset the entire solar-use easement program, instead of just the changes to the fee structure enacted by AB 2241. The proposed amendments reinstate the repealed provisions of the solar-use easement as they existed prior to the enactment of AB 2241. [See SEC. 11.]

8) *IBank reporting requirements*. The California Infrastructure and Economic Development Bank (IBank) was created in 1994 and operates pursuant to the Bergeson-Peace Infrastructure and Economic Development Bank Act (Government Code Sections 63000 et seq). IBank is located within the Governor's Office of Business and Economic Development (GO-Biz) and is governed by a five-member Board of Directors. IBank has broad authority to issue tax-exempt and taxable revenue bonds, provide financing to public and private agencies, provide credit enhancements, acquire or lease facilities, and leverage state and federal funds. Currently, state law requires IBank to deliver

annual reports for its Climate Catalyst Program, the IBank itself, and its Small Business Finance Center on October 1, November 1, and January 1, respectively. The IBank notes that each reporting date was added as part of successive legislative efforts related to each distinct program, and that the synchronization of the reporting dates (or lack thereof) was never considered. The IBank further notes that production of three separate reports is administratively inefficient and burdensome, and may be confusing to the other agencies and the public who are seeking information about IBank's activities. SB 1489 modifies the due dates of these three reports such that all are due on January 1 annually and allows the IBank to consolidate those reports into a single report. [See SEC. 12, 13, and 14.]

9) *SB 478 (Wiener, 2021) cleanup*. Current law prohibits local agencies from denying a housing development project located on an existing legal parcel solely on the basis that the lot area of the proposed lot does not meet the local agency's requirements for minimum lot size, so long as the project is between 3-10 units and meets other specified requirements (SB 478, Wiener, Chapter 363, Statutes of 2021). Senate Governance and Finance Committee (Committee) staff note the term "proposed lot" is unclear because projects using this provision of SB 478 must be located on an existing, legally-created parcel. SB 1489 clarifies that SB 478's protection against denial based on minimum lot sizes only applies to projects proposed to be developed on existing parcels. [See SEC. 15.]

10) *Housing Crisis Act of 2019 cleanup*. Current law, known as the Housing Crisis Act of 2019 allows, but does not require, housing project developers to submit a preliminary application in order to lock in the ordinances and other rules that apply to the project at the time the preliminary application is deemed complete in certain affected cities and counties (SB 330, Skinner, Chapter 654, Statutes of 2019). Originally, the Housing Crisis Act sunset on January 1, 2025. However, SB 8 (Skinner, Chapter 161, Statutes of 2021) extended the sunset date to January 1, 2030, such that housing project developers that submit complete preliminary applications prior to that date may continue to benefit from the bill's provisions until January 1, 2034. Senator Skinner's staff notes that, in doing so, SB 8 inadvertently limited the application of tenant protections in the Housing Crisis Act to *only* those projects where a housing developer chose to submit a preliminary application. Accordingly, a project proponent could avoid the tenant protections in the law by choosing not to apply for a preliminary application. SB 1489 clarifies that the tenant protections in the Housing Crisis Act apply to all housing projects in affected

cities and counties regardless of whether a preliminary application is submitted. [See SEC. 16.]

11) *Securities for design professionals*. Current law allows contractors on public works projects to substitute other securities (e.g. a retention bond, letter of credit, etc.) when the underlying contract includes a retention provision. There is no one definition of "contractor" found in the Public Contract Code; unless otherwise specified, its use generally does not include consultants who are not contractors, although some provisions of the Public Contract Code do include consultants. The American Council of Engineering Companies, California, notes that recently, some agencies have disallowed design professionals from substituting alternative securities in lieu of withheld retention payments. This is because those agencies now read the term "contractor" to exclude consultants. SB 1489 includes consultants in the list of those who may substitute a security as an alternative to retention. [See SEC. 21.]

12) *Report on Assessed Value to Caltrans Division of Aeronautics.* Revenue and Taxation Code Section 5366 requires assessors to provide the California Department of Transportation (Caltrans), Division of Aeronautics with a statement containing a list of names, addresses of owners, make, model, aircraft registration number, and assessed value of all aircraft where were using airports in the county as a base. That information is required by July 1st every year. Revenue and Taxation Code Section 407 requires assessors to transmit a statistical statement to the Board of Equalization by the second Monday in July. This report is generally referred to as the 801/802 report. The law requires the roll to be transmitted to the Auditor by July 1st every year. Even so, additional time is allowed for transmission of required statistical reports because there are many tasks required in the aftermath of roll close that take time. The California Assessors' Association notes that Caltrans' Division of Aeronautics expects delivery of the aircraft list by July 1 every year, whether or not the assessor has been granted an extension to produce the assessment roll. The proposed amendments align the timing of the delivery of the statement to Caltrans with the timing for the 407 report. [See SEC. 22.]

Background

Each year, local officials discover problems with state statutes affecting counties, cities, special districts, and redevelopment agencies, as well as the laws on land use planning and development. These minor problems do not warrant separate (and expensive) bills. According to the Legislative Analyst, the cost of producing a bill in 2001-02 was $17,890.

Legislators respond by combining several of these minor topics into an annual "omnibus bill." In 2021, for example, the Committee's omnibus bill was SB 813, which contained three proposals to change state law, avoiding approximately $54,000 in legislative costs. Although this practice may violate a strict interpretation of the single-subject and germaneness rules as presented in *Californians for an Open Primary v. McPherson* 43 Cal.Rptr.3d 315 (2006), it is an expeditious and relatively inexpensive way to respond to multiple requests.

Comments

Purpose of the bill. SB 1489 compiles, into a single bill, noncontroversial statutory changes to 12 parts of state laws that affect local agencies and land use. Moving a bill through the legislative process costs the state around $18,000. By avoiding eight other bills, the Senate Governance and Finance Committee's measure avoids approximately $214,000 in legislative costs. Although the practice may violate a strict interpretation of the single-subject and germaneness rules, the Committee insists on a very public review of each item. More than 100 public officials, trade groups, lobbyists, and legislative staffers see each proposal before it goes into the Committee's bill. Should any item in SB 1489 attract opposition, the Committee will delete it. In this transparent process, there is no hidden agenda. If it's not consensus, it's not omnibus.

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

According to the Assembly Appropriations Committee:

1) Minor and absorbable costs to various state agencies.

2) Costs to local agencies to implement the changes in this bill are likely minor and are not reimbursable by the state because cities and counties have general authority to impose and adjust fees and charges to cover their costs.

SUPPORT: (Verified 8/11/22)

American Council of Engineering Companies of California
California Association of County Treasurers & Tax Collectors
City of Chino Hills
County Recorders Association of California

OPPOSITION: (Verified 8/11/22)

None received

ASSEMBLY FLOOR: 76-0, 8/11/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bloom, Quirk-Silva, Voepel, Wilson

Prepared by: Anton Favorini-Csorba / GOV. & F. / (916) 651-4119
8/12/22 16:57:27

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

SENATE RULES COMMITTEE SB 1494
Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SB 1494
Author: Committee on Governance and Finance
Amended: 6/13/22
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 4/20/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

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

ASSEMBLY FLOOR: 76-0, 8/18/22 - See last page for vote

SUBJECT: Property taxation: revenue allocations: tax-defaulted property sales

SOURCE: California Association of County Treasurer-Tax Collectors
State Board of Equalization

DIGEST: This bill makes five changes to improve tax administration.

Assembly Amendments (1) instead of striking the ten dollar cap on the fee tax collectors can collect to prepare delinquent tax records, increase the cap from ten dollars to $55, (2) limit the tax collectors authority to offer noncommercial residential property in a tax sale to the next highest bidder at their bid price if the highest bidder does not consummate the sale only when the next public auction for that parcel of property occurs more than one year after the date of that first auction, and (3) sunset the authority for tax collectors to offer noncommercial residential property to the next highest bidder in a tax sale on January 1, 2029.

ANALYSIS:

Existing law:

1) Enacts the Taxpayer Transparency and Fairness Act of 2017, which created the California Department of Tax and Fee Administration (CDTFA), and shifted all of the Board of Equalization's (BOE's) statutory tax administration functions, including administration of the Sales and Use Tax, to the newly formed Department (AB 102, Committee on Budget, Chapter 16, Statutes of 2017)

2) Contains numerous references to BOE that should instead refer to CDTFA.

3) Provides that when a taxpayer is delinquent on the second installment of property taxes, the tax collector may collect a cost of up to $10 to prepare delinquency records and notice the taxpayer.

4) States that if the property owner does not pay the property taxes due in the current fiscal year before June 30th, the property becomes tax-defaulted.

5) Provides that the tax collector can seek approval from the board of supervisors to sell the property in a tax sale when a residential property has been in default for five years, or three years for a commercial property.

6) Sets forth a specific timeline for tax collectors to notify property owners of properties of tax default and pending tax sale.

7) Directs the tax collector to conduct all sales in public, and to sell the property to the highest bidder.

8) Allows governmental entities and nonprofit organizations to purchase tax defaulted property by paying only the delinquent taxes.

9) Requires the tax collector to send a notice of tax sale to the clerk or secretary of the board of each government entity that has the right to levy taxes or assessments on the property, as well as forward a copy to any nonprofit organization who has requested a copy of the notice.

10) States that after a tax sale, proceeds from the sale first pay for the costs of newspaper publishing, and recording fees. Funds are then distributed to taxing agencies with valid claims, and to the tax collector to pay for notices and contacting taxpayers. After that, proceeds satisfy liens held by parties in interest. Any amounts left over, known as "excess proceeds," are then divided

between each taxing entity according to their appropriate share of the property tax, after the county deducts specified costs.

11) Provides that any party of interest can file a claim for excess proceeds at any time prior to one year passing after the tax collector records the deed transferring the property to the purchaser. The county board of supervisors then decides to distribute excess proceeds, which parties of interest can then file an action or proceeding to review within ninety days.

12) Allows, additionally, a board of supervisors to delegate the decision to distribute excess proceeds to the tax collector by resolution; however, the section of law authorizing the delegation does not have a specific deadline for parties of interest to file an action or proceeding to review the decision.

This bill:

1) Strikes the reference to BOE and instead inserts CDTFA in a section of law that directs auditors to make adjustments based on estimates of sales and use tax revenue.

2) Increases the cap that on the fee tax collectors can collect to prepare delinquent tax records from $10 to $55, but no more than the actual cost.

3) Changes two sections of property tax law to add that tax collectors may offer a property in a tax sale to the next highest bidder at their bid price if the highest bidder does not consummate the sale within the time period specified by the tax collector.

4) Provides that tax collectors may only offer noncommercial residential property in a tax sale to the next highest bidder at their bid price when the next public auction for that parcel of property occurs more than one year after the date of that first auction.

5) Sunsets the authority for tax collectors to offer noncommercial residential property to the next highest bidder on January 1, 2029.

6) Allows the tax collector send the notice of tax sale to other government entities and nonprofit organizations electronically.

7) Clarifies that the 90-day deadline for parties of interest to file an action or proceeding to review the distribution of excess proceeds from a tax sale that applies to the board of supervisors also applies when the board of supervisors delegates the decision to the tax collector, and makes a conforming change.

Comments

According to the Senate Governance and Finance Committee, "Each year, County Treasurers and Tax Collectors detect problems and defects in state law that hinder their ability to discharge their duties under the law. SB 1494 compiles five such statutory changes to property tax collection and administration law suggested by the California Association of County Treasurer-Tax Collectors to assist them discharge their duties effectively. Additionally, BOE identified an outdated reference in property tax allocation law. SB 1456 combines five statutory changes into one single bill to improve tax administration. Moving five individual proposals as separate bills, even if technical and noncontroversial, through the legislative process would be much less efficient than consolidating them into one measure. The Committee distributed these proposals to affected parties to review each proposal before inclusion in the bill. Should anyone object to an item in the bill, the Committee will remove it."

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

SUPPORT: (Verified 8/19/22)

California Association of County Treasurer-Tax Collectors (co-source)
State Board of Equalization (co-source)

OPPOSITION: (Verified 8/19/22)

None received

ARGUMENTS IN SUPPORT: According to the California Association of County Treasurer-Tax Collectors, "SB 1494 firstly will amend Rev.& Tax. Code section 3693(a) and 3692 (d), related to Chapter 7 sales that require property sales to be subject to public auction to the highest bidder. Tax collectors have noticed an increase in bidders neglecting to finalize payment voiding the sale, and are proposing an amendment allowing the sale to be offered to the next highest bidder for non-residential properties. As amended, it extends this same ability to offer properties to the next highest bidder if the residential property has been offered at auction previously without the sale being completed by the winning bidder. It also resets a cap established in 1983 of $10.00 to prepare delinquent tax records and give notice of delinquency. The amended bill resets the cap at $55, which is higher than what the average cost inflation would have otherwise grown to be, but some counties have conducted time studies and one county in California established that staff time costs are $55 per property. However, as the language states "up to $55"

to allow counties to do their own cost studies and update the cost to reflect true costs under Government Code Section 54985. The measure also clarifies statute regarding how excess proceed claims from sales of tax-defaulted properties by

the tax collector must be distributed. Unfortunately, the code is vague regarding administrative rules and procedures and is also currently unclear as to the inception of the 90-day commencement period for dispute proceedings of claimants who wish to dispute the approval or denial of a claim. The subsequent Rev.& Tax. Code 4675.1 allows the Board of Supervisors of any county to delegate the tax collector to perform on its behalf and this bill will align with these two codes better. SB 1494 will add language to the statute to establish the date at which the 90-day commencement period begins to dispute an approved or denied claim. Lastly, SB 1494 will add language to Rev.& Tax. Code Section 3700 to enhance communications with taxing agencies and nonprofit organizations regarding properties eligible for Chapter 8 sales. The code currently requires that before the publication of the intended tax sale, the tax collector is required to "mail" or "deliver" a copy of the notice of intended sale to these organizations. But printing and mailing notices is an additional, unreimbursed expense; SB 1494 adds language to authorize this information to be transmitted electronically, improving efficiency, and reaching recipients more effectively. Further, electronic documents can easily be scanned for specific key words or other details by the recipient organizations, which will also make the communication more useful to non-profits, for example, that may have an interest in a particular property that is subject to sale.

ASSEMBLY FLOOR: 76-0, 8/18/22
AYES: Aguiar-Curry, Alvarez, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Rendon

NO VOTE RECORDED: Arambula, Choi, Lackey, Wood

Prepared by: Colin Grinnell / GOV. & F. / (916) 651-4119
8/19/22 13:27:17

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

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UNFINISHED BUSINESS

Bill No: SB 1498
Author: Committee on Banking and Financial Institutions
Amended: 8/18/22
Vote: 21

SENATE BANKING & F.I. COMMITTEE: 8-0, 4/20/22
AYES: Limón, Ochoa Bogh, Bradford, Dahle, Durazo, Hueso, Min, Portantino
NO VOTE RECORDED: Caballero

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

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

ASSEMBLY FLOOR: 77-0, 8/23/22 - See last page for vote

SUBJECT: Financial institutions: Department of Financial Protection and Innovation: money transmissions

SOURCE: Author

DIGEST: This bill makes assorted technical and clarifying changes to reflect the newly renamed Department of Financial Protection and Innovation (DFPI) and to clarify the scope of the Money Transmission Act (MTA).

Assembly Amendments are clarifying and technical in nature including language that addresses chaptering out issues.

ANALYSIS:

Existing law:

1) Contains references to "Department of Business Oversight" and "Commissioner of Business Oversight" throughout various codes.

2) Establishes in state government a Department of Financial Protection and Innovation, charged with executing laws related to financial services. (Financial Code Section 300)

3) Provides MTA, administered DFPI, which requires licensure of persons engaged in the business of money transmission, as specified, unless the person is exempt. (Financial Code Section 2000 et seq.)

4) Defines money transmission as any of the following: selling or issuing payment instruments, selling or issuing stored value, or receiving money for transmission. (Financial Code Section 2003(q))

This bill:

1) Replaces outdated references to "Department of Business Oversight" and "Commissioner of Business Oversight" with references to "Department of Financial Protection and Innovation" and "Commissioner of Financial Protection and Innovation," respectively.

2) Specifies that the activities considered "money transmission" pursuant to MTA must be in relation to a person located in California.

Comments

1) *Purpose.* The purpose of this bill is to correct outdated references to the Department of Business Oversight (DBO) with the department's new name, Department of Financial Protection and Innovation, which was changed by AB 1864 (Limón, Chapter 157, Statutes of 2020). This bill also clarifies how the definition of money transmission in the Money Transmission Act is applied.

2) *Name change:* In 2020 the Legislature passed and Governor Newsom signed AB 1864, which complemented an enacted budget bill to expand the authority and resources of the state financial regulator. In addition to providing broader authority, the bill changed the name of the regulator from DBO to DFPI. This bill corrects references throughout state law that refer to the previous name of the department and the commissioner of the department.

Money transmission definition. The MTA requires persons engaged in money transmission to obtain a license from DFPI. The MTA defines money transmission as any of the following acts:

- Selling or issuing payment instruments.
- Selling or issuing stored value.
- Receiving money for transmission.

The MTA does not, however, specify whether licensure is required for engaging in these acts with a person located in a place other than California. DFPI has interpreted the law to apply only when such a person is located in this state, and this bill codifies that interpretation, clarifying the applicability of the MTA.

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

According to the Assembly Appropriations Committee, there are no state costs.

SUPPORT: (Verified 8/23/22)

California Bankers Association
California Community Banking Network

OPPOSITION: (Verified 8/23/22)

None received

ASSEMBLY FLOOR: 77-0, 8/23/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Davies, Gray

Prepared by: Bill Herms / B. & F.I. / , Michael Burdick / B. & F.I. / 8/23/22 15:12:08

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

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

UNFINISHED BUSINESS

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

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

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

SUBJECT: Prostate Cancer Awareness Month

SOURCE: California Prostate Cancer Coalition

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

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

ANALYSIS: This resolution makes the following legislative findings:

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

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

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

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

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

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

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

This resolution:

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

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

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

Related/Prior Legislation

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

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

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

SUPPORT: (Verified 8/5/22)

California Prostate Cancer Coalition (source)
American Cancer Society

OPPOSITION: (Verified 8/5/22)

None received

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

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

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

SENATE RULES COMMITTEE SCR 70
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SCR 70
Author: Caballero (D), et al.
Amended: 8/11/22
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 14-0, 3/29/22
AYES: Dodd, Nielsen, Allen, Archuleta, Becker, Borgeas, Bradford, Glazer, Hueso, Jones, Kamlager, Melendez, Rubio, Wilk
NO VOTE RECORDED: Portantino

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 39-0, 4/21/22 (Consent)
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NO VOTE RECORDED: Wilk

ASSEMBLY FLOOR: 73-0, 8/18/22 (Consent) - See last page for vote

SUBJECT: The Mario Obledo Building

SOURCE: Chicano Latino Caucus, California Democratic Party

DIGEST: This resolution designates the East End Complex-Block 171, located at 1501 Capitol Avenue in Sacramento, as the Mario Obledo Building.

Assembly Amendments remove the requirement that the Department of General Services (DGS) erect appropriate plaques and markers and instead request DGS to determine the cost of erecting appropriate plaques and markers and, upon receiving donations from nonstate sources, to cover that costs to erect such signage.

ANALYSIS:

Existing law:

1) Establishes DGS under the Government Operations Agency (GovOps) and provides that DGS serve as the business manager for the State of California.

2) Establishes GovOps and makes GovOps responsible for administering state operations including procurement, information technology, and human resources.

This resolution:

1) Designates the East End Complex-Block 171, located at 1501 Capitol Avenue in Sacramento, as the Mario Obledo Building.

2) Request that DGS to determine the cost of erecting appropriate plaques and markers showing this special designation and, upon receiving donations from nonstate sources, to cover that cost to erect signage.

Background

Purpose of This Resolution. According to the author's office, "from an impoverished background in San Antonio, Mario G. Obledo became the founder and leader of major Hispanic-American Organizations, such as the Mexican American Legal Defense And Education Fund (MALDEF), a top state official, and a vocal critic of unfair, and often racist, treatment of Latinos. Mario G. Obledo is an American success story, and his contributions to society should be commemorated and serve as an inspiration to California residents and our youth. SCR 70 would honor Mr. Obledo and designate the East End Complex-Block 171, located at 1501 Capitol Avenue in Sacramento, as the Mario Obledo Building."

Mario G. Obledo. Born on April 9, 1932, Mario Guerra Obledo was born in San Antonio, Texas to Jesus Perez Obledo and Concepcion Obledo. One of thirteen children, Obledo had a very tough childhood that included the death of his father when Mario was only five years old.

His mother emphasized the value of education and made sure that Mario focused on education to keep him off the streets. After graduating high school in 1949, he attended the University of Texas at Austin to pursue a pharmaceutical degree.

After a stint in the U.S. Navy, he returned to Austin and graduated in 1957 with a degree in pharmacy. During his time at Austin, he established a chapter of the League of United Latin American Citizens on campus. Soon after graduating, he enrolled in law school at St. Mary's university in San Antonio and graduated with a law degree in 1960.

In 1967, Obledo co-founded MALDEF and became its first general counsel. After MALDEF, Obledo taught at Harvard Law School until 1974 when California Governor Jerry Brown asked him for his assistance in recruiting potential cabinet officers. Governor Brown then offered Obledo the position of health and welfare secretary. That appointment, made Obledo the highest ranking Mexican American official in California. He served in that position until 1982, when he resigned to make an unsuccessful run for the Democratic nomination for governor.

Remembered as the "godfather" of the Latino civil rights movement for his numerous efforts in standing up for social justice and the advancement of the community, Obledo was also a co-founder of the Hispanic National Bar Association and the National Coalition of Hispanic Organizations.

In the late 1990s, Obledo became much more of a public activist as he protested against anti-immigrant advertising. In 1998, President Bill Clinton presented Obledo with the Presidential Medal of Freedom and described him as having "created powerful chorus for justice and equality" and cited his efforts to fight for Latino children to swim in public pools in Texas. In 2010, he received an honorary doctor of law degree from California State University, Sacramento.

Obledo died on August 18, 2010, following a heart attack in Sacramento, California at the age of 78. Following his death, Janet Murguia, president of the National Council of La Raza described Obledo as "one of those giants that we all stand on the shoulders of."

East End Complex-Block 171. The East End Complex-Block 171, located at 1501 Capitol Avenue in Sacramento, is a state-owned office building. It is currently occupied by the Department of Health Services and the California Department of Public Health. The building was constructed in 2002 and has six stories and 433,360 square feet.

Related/Prior Legislation

SCR 31 (Bradford, Resolution Chapter 1, Statutes of 2020) named the public street, circle, and plaza at 914 and 915 Capitol Mall in the City of Sacramento as the "Willie L. Brown, Jr. Circle and Plaza."

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

SUPPORT: (Verified 8/17/22)

Chicano Latino Caucus, California Democratic Party (source)
Alianza
Café De California
California League of United Latin American Citizens
Chinese American Council of Sacramento
Darrell Steinberg, Mayor, City of Sacramento
Eric Guerra, Mayor Pro Tem, City of Sacramento
Jewish Federation of the Sacramento Region
League of United Latin American Citizens
Lorenzo Patino Council #2862
Mario G. Obledo National Coalition of Hispanic Organizations
National Latino Peace Officers Association
Sacramento Immigration Coalition
Texas State League of United American Citizens

OPPOSITION: (Verified 8/17/22)

None received

ARGUMENTS IN SUPPORT: According to the California League of United Latin American Citizens, "Dr. Mario G. Obledo served as a dedicated leader in Civil Rights affairs for more than 50 years, becoming the founder and leader of major Hispanic-American organizations, a top state official, and a vocal critic of unfair, and often racist treatment of Latinos. SCR 70 would honor Mario G. Obledo, a great Latino civil rights leader, and his contributions to the state of California."

According to the Mario G. Obledo National Coalition of Hispanic Organizations, "Mario Obledo is an American success story, and his life should serve as an inspiration to our youth. Unfortunately, younger generations of Californians are unaware of his contributions in fighting discrimination and assuring full enjoyment of civil rights by all. Naming the California Health Buildings after Mario Obledo

will help assure that his many contributions to society will not go unnoticed and that he receives the recognition he so richly deserves."

ASSEMBLY FLOOR: 73-0, 8/18/22
AYES: Aguiar-Curry, Alvarez, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Rendon
NO VOTE RECORDED: Arambula, Cervantes, Chen, Choi, Flora, Smith, Wood

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
8/19/22 13:24:07

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

Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SCR 97
Author: Nielsen (R), et al.
Amended: 8/1/22
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 15-0, 4/26/22
AYES: Gonzalez, Bates, Allen, Archuleta, Becker, Cortese, Dahle, Dodd, Limón, McGuire, Melendez, Min, Newman, Rubio, Wieckowski
NO VOTE RECORDED: Skinner, Wilk

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 35-0, 5/12/22 (Consent)
AYES: Allen, Atkins, Becker, Borgeas, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Archuleta, Bates, Dahle, Grove, Min

ASSEMBLY FLOOR: 77-0, 8/18/22 - See last page for vote

SUBJECT: The Stan Statham Memorial Highway

SOURCE: Author

DIGEST: This resolution memorializes Stan Statham for his service.

Assembly Amendments clarify that this resolution honors Stan Statham.

ANALYSIS: This resolution acknowledges and commemorates the life and service of Stan Statham.

Background

In 2020, Raymond "Stan" Stanley Statham tragically passed away. Upon graduating from high school in 1956, Mr. Statham enlisted in the 131st Technical Intelligence Attachment in West Berlin, Germany. Notably, he served as an American spy during the Cold War. Upon his return to the states, he worked as a radio personality at several radio stations in Northern California. Later he served as the New Director and Anchorman for KHSL-TV in Chico. In 1976, he was elected to the California State Assembly and served for 18 years.

Stan Statham is survived by his wife, wife, Roleeda Statham; daughter, Jennifer Hejsek; son, Devin Statham; stepdaughters, Jessica and Janis Epperson; stepsons Eric and Steven Epperson; and his grandchildren and great-grandchildren.

Comments

1) *Purpose*. The purpose of this resolution is to acknowledge and commemorate the life and service of Stan Statham.

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

None.

SUPPORT: (Verified 8/18/22)

California Broadcasters Association

OPPOSITION: (Verified 8/18/22)

None received

ASSEMBLY FLOOR: 77-0, 8/18/22
AYES: Aguiar-Curry, Alvarez, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Rendon

NO VOTE RECORDED: Arambula, Choi, Wood

Prepared by: Randy Chinn, Katie Bonin / TRANS. / (916) 651-4121
8/19/22 13:08:44

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

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

THIRD READING

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

SUBJECT: Breastfeeding Awareness Month of 2022

SOURCE: Author

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

ANALYSIS: This resolution makes the following legislative findings:

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

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

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

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

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

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

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

This resolution:

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

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

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

Related/Prior Legislation

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

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

SUPPORT: (Verified 8/9/22)

None received

OPPOSITION: (Verified 8/9/22)

None received

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

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

Office of Senate Floor Analyses
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THIRD READING

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

SUBJECT: Runaway and Homeless Youth Prevention Month

SOURCE: California Coalition for Youth

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

ANALYSIS: This resolution makes the following legislative findings:

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

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

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

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

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

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

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

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

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

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

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

Related/Prior Legislation

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

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

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

SUPPORT: (Verified 8/8/22)

California Coalition for Youth (source)

OPPOSITION: (Verified 8/8/22)

None received

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

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

SENATE RULES COMMITTEE SJR 5
Office of Senate Floor Analyses
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UNFINISHED BUSINESS

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

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

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

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

SUBJECT: Social Security benefits: COVID-19

SOURCE: Author

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

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

ANALYSIS:

Existing federal law:

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

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

This resolution:

1) Makes, among others, the following declarations:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Background

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

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

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

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

Comments

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

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

Related/Prior Legislation

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

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

SUPPORT: (Verified 8/3/22)

None received

OPPOSITION: (Verified 8/3/22)

None received

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

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

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

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

THIRD READING

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

SUBJECT: Probation Services Week

SOURCE: Author

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

ANALYSIS: This resolution makes the following legislative findings:

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

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

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

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

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

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

Related/Prior Legislation

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

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

SUPPORT: (Verified 8/3/22)

None received

OPPOSITION: (Verified 8/3/22)

None received

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

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 22
Author: McCarty (D)
Amended: 8/2/22 in Senate
Vote: 21

PRIOR VOTES NOT RELEVANT

SENATE EDUCATION COMMITTEE: 6-0, 6/30/22
AYES: Leyva, Ochoa Bogh, Cortese, Glazer, McGuire, Pan
NO VOTE RECORDED: Dahle

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

SUBJECT: Preschool data: data collection

SOURCE: California School Employees Association
Early Edge
Kidango

DIGEST: This bill requires the California Department of Education (CDE) to collect specified student-level data relative to enrollment in California state preschool programs operated by local educational agencies (LEAs) to provide longitudinal data.

ANALYSIS: Existing law establishes the California Longitudinal Pupil Achievement Data System (CALPADS) to accomplish all of the following goals:

1) To provide school districts and CDE access to data necessary to comply with federal reporting requirements delineated in the federal No Child Left Behind Act of 2001.

2) To provide a better means of evaluating educational progress and investments over time.

3) To provide local educational agencies with the data needed to improve student achievement, including college and career readiness.

4) To provide an efficient, flexible, and secure means of maintaining longitudinal statewide student level data between and among the state's educational segments and operational tools, including, but not limited to, all of the following:

   a) Student level data from all elementary and secondary schools, including, but not limited to, juvenile court schools, alternative schools, continuation schools, special education schools, and adult educational programs offering a high school diploma or equivalency.

   b) Student level data collected in both detention and non-detention settings.

   c) Student level data to postsecondary educational institutions and the Student Aid Commission.

   d) To facilitate the ability of the state to publicly report data, as specified in the federal America COMPETES Act and as required by the federal American Recovery and Reinvestment Act of 2009.

   e) To ensure that any data access provided to researchers, as required pursuant to the federal Race to the Top regulations and guidelines is provided, only to the extent that the data access is in compliance with the federal Family Educational Rights and Privacy Act of 1974. (Education Code 60900)

This bill requires CDE to collect the following data by July 1, 2024:

1) Pupil data for each pupil enrolled in a California state preschool program operated by an LEA, including all applicable data elements that are collected for pupils in transitional kindergarten, which, in combination with the data collected through CALPADS, will provide longitudinal pupil data for pupils enrolled in state preschool programs operated by LEAs through grade 12.

2) The same data for educators in California state preschool programs operated by a LEA that is collected for educators in the K–12 classroom setting, to the extent that data is collected.

Comments

Need for this bill. According to the author, "Last year, California made universal preschool a reality by expanding access to Universal Transitional Kindergarten for

all four-year-olds, giving families an additional high-quality pre-K option and creating tens of thousands of new early education jobs. AB 22 will ensure that California collects the necessary student and workforce data to ensure the state optimizes its limited resources in ways that best serve California families."

CALPADS. CALPADS has been operational since 2009, and enables the migration of numerous methods of aggregate data collection to CALPADS, creating a central, cohesive system that maintains quality student-level data, as well as providing a vehicle that tracks individual student enrollment history and achievement data which thus provides reliable longitudinal information.

CALPADS is the foundation of California's K–12 education data system, comprising student demographic, program participation, grade level, enrollment, course enrollment and completion, discipline, and statewide assessment data. The student-level, longitudinal data in CALPADS enables the facilitation of program evaluation, the assessment of student achievement over time, the calculation of more accurate dropout and graduation rates, the efficient creation of reports to meet state and federal reporting requirements, and the ability to create ad hoc reports and responses to relevant questions. CALPADS provides LEAs with access to longitudinal data and reports on their own students, and it gives LEAs immediate access to information on new students, enabling the LEAs to place students appropriately and to determine whether any assessments are necessary. [CALPADS Background/History - California Longitudinal Pupil Achievement Data System (CALPADS) (CA Dept of Education)]

Data about all state preschool programs? State preschool programs may be provided by an LEA or a non-LEA entity (e.g. private center-based preschool). This bill requires the collection of student level and teacher data relative to state preschools that are operated by an LEA, as there is an existing system to collect and report this data. However, no such system exists for state preschools operated by non-LEAs. The legislature may wish to consider working with CDE to find a way to gather this data from all state preschool program contractors, and with the Department of Social Services to obtain the same data related to children served in other early learning and care settings. Ideally, it would be helpful to have this data from all types of early learning and care providers as to how the expansion of transitional kindergarten has affected enrollment in other types of early learning and care programs that serve four-year-old children, as well as the effect on the early learning workforce.

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

According to the Senate Appropriations Committee, the CDE estimates General Fund costs of approximately $3.3 million in the first year and $2.9 million in the second year to collect the state preschool program data. This estimate assumes that the data would be collected outside of CALPADS and that a standalone system would be utilized.

SUPPORT: (Verified 8/10/22)

California School Employees Association (co-source)
Early Edge California (co-source)
Kidango (co-source)
Children Now
Education Trust-West
San Diego Unified School District

OPPOSITION: (Verified 8/10/22)

None received

Prepared by: Lynn Lorber / ED. / (916) 651-4105
8/13/22 9:46:44

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 32
Author: Aguiar-Curry (D) and Robert Rivas (D), et al.
Amended: 8/24/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 10-0, 6/29/22
AYES: Pan, Melendez, Eggman, Grove, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Gonzalez

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 78-0, 6/1/21 - See last page for vote

SUBJECT: Telehealth

SOURCE: California Association of Public Hospitals and Health Systems
California Medical Association
CommunityHealth+ Advocates
Essential Access Health
Planned Parenthood Affiliates of California

DIGEST: This bill permits the Department of Health Care Services (DHCS) to allow under specified circumstances new patients to be established with health care providers in the Medi-Cal program using audio-only synchronous and other modalities, and permits exceptions from requirements to ensure beneficiary choice of modalities.

Senate Floor Amendments of 8/24/22 make non-substantive changes and address chaptering-out conflicts with SB 966 (Limon), which requires DHCS to seek any necessary federal approvals and issue appropriate guidance to allow a federally qualified health center (FQHC) or rural health clinic (RHC) to bill for specified behavioral health providers, as specified.

Senate Floor Amendments of 8/22/22 delete the expanded definition of synchronous interaction for purposes of telehealth, telehealth payment parity expansion in Medi-Cal managed care, evaluation requirements for DHCS; allow DHCS to authorize exceptions to the prohibition on establishing new patients via audio-only interactions and other modalities; and allow DHCS to authorize some exceptions to the beneficiary choice requirements.

ANALYSIS:

Existing law:

1) Establishes the DHCS to administer the Medi-Cal program. [WIC §14000, et seq.]

2) Requires an FQHC or an RHC "visit" to mean a face-to-face encounter between an FQHC or RHC patient and specified providers. Prohibits an FQHC or RHC from establishing a new patient relationship using audio-only synchronous interaction. Allows DHCS to develop exceptions. Does not preclude an FQHC or RHC from establishing a new patient through asynchronous store and forward modality if certain conditions are met such as the patient is physically present at an originating site that is a licensed or intermittent site of the FQHC or RHC, at the time the service is performed. [WIC §14132.100]

3) Does not require in-person, face-to-face contact between a health care provider and a patient under the Medi-Cal program for covered health care services and provider types designated by DHCS, when provided by video synchronous interactions, asynchronous store and forward, audio-only synchronous interaction, remote patient monitoring, or other permissible virtual communication modalities when services and setting meet the applicable standard of care and meet the requirements of the service code being billed, subject to specified requirements. [WIC §14132.725]

4) Requires at some point designated by DHCS, no sooner than January 1, 2024, a Medi-Cal provider furnishing applicable health care services via audio-only synchronous interaction to also offer those same services via video synchronous interaction to preserve beneficiary choice. Permits DHCS to provide specific exemptions. Additionally, on a date designated by DHCS, a provider furnishing services thorough video synchronous interaction or audio-only synchronous interaction to offer those services via in-person, face-to-face contraction, or arrange for a referral to in-person care.[WIC §14132.725]

5) Permits a health care provider to establish a new patient relationship with a Medi-Cal beneficiary via video synchronous interaction, but prohibits this using asynchronous store and forward, telephonic (audio-only) synchronous interaction, remote patient monitoring or other virtual communication, except as permitted for FQHCs and RHCs. [WIC §14132.725]

6) Defines "sensitive services" to mean all health care services related to mental or behavioral health, sexual and reproductive health, sexually transmitted infections, substance use disorder, gender affirming care, and intimate partner violence, and includes other specified services, as described, obtained by a patient at or above the minimum age specified for consenting to the service specified in the section. [CIV 56.05]

This bill:

1) Permits DCHS to provide for an exception to the prohibition on FQHCs and RHCs establishing a new patient relationship using audio-only synchronous interaction, including, but not limited to, the situations as described below, and requires that they are established in consultation with affected stakeholders and published in departmental guidance:
   a) When the visit is related to sensitive services, and when established in accordance DHCS requirements and consistent with federal and state law, regulations and guidance; and,
   b) When the patient requests audio-only modality or attests they do not have access to video, and when established in accordance with department requirements and consistent with federal and state laws, regulations and guidance.

2) Allows in making exceptions to beneficiary choice requirements, DHCS to also take into consideration the availability of broadband access based on speed standards set by the Federal Communication Commission pursuant to federal law, as specified, or other applicable federal law or regulation.

3) Permits a health care provider to establish a new patient relationship with a Medi-Cal beneficiary via asynchronous store and forward, audio-only synchronous interaction, remote patient monitoring, or other virtual communication modalities, to the same extent as FQHCs and RHCs but also allows for the exemptions described in 1) above for remote patient monitoring or other virtual communication modalities (for providers who are not FQHCs and RHCs).

4) Requires applicable health care services provided through asynchronous store and forward, video synchronous store interaction, audio-only synchronous interaction, remote patient monitoring, or other permissible virtual communication to comply with privacy and security requirements contained in federal Health Insurance Portability and Accountability Act of 1996, and regulations, the Medicaid State Plan Amendment and any other applicable state and federal statutes and regulations.

Comments

According to the author, the COVID-19 pandemic has made abundantly clear what we have known for decades – our most vulnerable and marginalized communities continue to struggle for affordable and reliable access to healthcare. This bill will extend the telehealth flexibilities that were put in place during the COVID-19 pandemic, which have been vital to ensuring that health centers can continue providing services.

Budget Act of 2022-23. As part of the budget, DHCS requested trailer bill language to make statutory changes to align with its DHCS Telehealth Recommendations Post- the COVID Public Health Emergency (PHE).

SB 184 (Committee on Budget, Chapter 47, Statutes of 2022) is the omnibus health budget trailer bill which addresses policy beyond the PHE with respect to Medi-Cal and telehealth including:

a) Provides that face-to-face contact is not required when covered Medi-Cal services are provided by video synchronous interaction, audio-only synchronous interaction, remote patient monitoring, or other permissible virtual communication modalities, meeting certain criteria.
b) Requires a provider furnishing services through video synchronous interaction or audio-only synchronous interaction to also offer those services through in-person, face-to-face contact or arrange for a referral to in-person care.
c) Authorizes a provider to establish a new patient relationship with a Medi-Cal beneficiary through video synchronous interaction, and prohibits a provider from doing so through other telehealth modalities.
d) Adopts various requirements on DHCS, or a Medi-Cal provider, relating to the use of telehealth modalities, including requirements concerning fee schedules and minimum reimbursement limits, services in border communities, as defined, consent standards, privacy and security compliance, informational notices, and a research and evaluation plan.
e) Expands the definition of patient "visit," for FQHCs and RHCs, to include an encounter between an FQHC or RHC patient and any of specified health care

professionals using video synchronous interaction, audio-only synchronous interaction, or asynchronous store and forward modality when the applicable standard of care and other conditions are met.

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

According to the Senate Appropriations Committee, unknown ongoing costs, potentially millions of dollars (General Fund and federal funds). Establishing new patients that would not have taken place in the absence of telehealth modalities proposed under this bill would increase health utilization costs.

SUPPORT: (Verified 8/22/22)

California Association of Public Hospitals and Health Systems (co-source)
California Medical Association (co-source)
CommunityHealth+ Advocates (co-source)
Essential Access Health (co-source)
Planned Parenthood Affiliates of California (co-source)
AARP California
AIDS Healthcare Foundation
Alameda Health Consortium
Alameda Health System
All Inclusive Community Health Center
Alliance Medical Center
AltaMed Health Services
American College of Obstetricians and Gynecologists District IX
Ampla Health
APLA Health
Arnold & Associates
Arroyo Vista Family Health Center
Asian Health Services
Asian Pacific Health Care Venture, Inc.
Association for Clinical Oncology
Association of California Healthcare Districts
Bartz-Altadonna Community Health Centers
Behavioral Health Services, Inc.
Borrego Health
Business & Professional Women of Nevada County
California Academy of Family Physicians
California Association of Health Facilities
California Association of Public Hospitals and Health Systems,

California Association of Social Rehabilitation Agencies
California Behavioral Health Planning Council
California Board of Psychology
California Chapter of the American College of Emergency Physicians
California Chronic Care Coalition
California Commission on Aging
California Commission on the Status of Women and Girls
California Consortium for Urban Indian Health
California Dialysis Council
California Hospital Association
California PACE Association
California Podiatric Medical Association
California Primary Care Association
California Psychological Association
California School-based Health Alliance
California Senior Legislature
California Solar & Storage Association
California State Association of Psychiatrists
California Telehealth Network
California Telehealth Policy Coalition
Center for Family Health & Education
Central California Partnership for Health
Central Valley Health Network
ChapCare Medical and Dental Health Center
CHE Behavioral Services
Children Now
Children's Specialty Care Coalition
Chinatown Service Center
Citizens for Choice
City of San Francisco
Coalition of Orange County Community Health Centers
CommuniCare Health Centers
Community Clinic Association of Los Angeles County
Community Health Councils
Community Health Partnership
Community Medical Wellness Centers
County Health Executives Association of California
County of Contra Costa
County of San Diego
County of San Francisco

County of Santa Barbara
County of Santa Clara
County Welfare Directors Association of California
Desert Aids Project
District Hospital Leadership Forum
Eisner Health
El Proyecto Del Barrio, Inc.
Family Health Care Centers of Greater Los Angeles, Inc.
Father Joe's Villages
First 5 Association of California
Golden Valley Health Centers
Governmental Advocates, Inc.
Health Access California
Health Alliance of Northern California
Health Care LA
Health Center Partners of Southern California
Health Improvement Partnership of Santa Cruz
Kheir Clinic
Kheir Health Services
LA Clinica De LA Raza, INC.
Lifelong Medical Care
Los Angeles Homeless Services Authority
Los Angeles LGBT Center
Mission City Community Network
Morongo Basin Healthcare District
MPact Global Action for Gay Men's Health and Human Rights
NARAL Pro-Choice California
National Association of Social Workers, California Chapter
National Multiple Sclerosis Society
Natividad Medical Center - County of Monterey
Neighborhood Healthcare
North Coast Clinics Network
North East Medical Services
Northeast Valley Health Corporation
Occupational Therapy Association of California
OCHIN
Ole Health
ParkTree Community Health Centers
Petaluma Health Center
Queens Care Health Centers

Redwood Community Health Coalition
Rural County Representatives of California
Saban Community Clinic
Salud Para La Gente
San Fernando Community Health Center
San Francisco Department of Public Health
San Mateo County Board of Supervisors
San Ysidro Health
Santa Barbara Women's Political Committee
Santa Cruz Community Health Centers
Santa Rosa Community Health
Shasta Community Health Center
Solano County Board of Supervisors
South Bay Family Health Center
South Central Family Health Center
St. John’s Well Child and Family Center
Steinberg Institute
Sutter Health
TCC Family Health
Tenet Healthcare Corporation
The Achievable Foundation
The California Association of Local Behavioral Health Boards and Commissions
The Los Angeles Trust for Children's Health
Triple P America Inc.
TrueCare
UMMA Community Clinic
Unicare Community Health Center
Universal Community Health Center
Urban Counties of California
Venice Family Clinic
WellSpace Health
Western Center on Law & Poverty
Westside Family Health Center
Women’s Health Specialists

OPPOSITION: (Verified 8/22/22)

ATA Action
California Chamber of Commerce
Teladoc Health

ARGUMENTS IN SUPPORT: The California Association of Public Hospitals and Health Systems (CAPH), writes that CAPH and the co-sponsors of this bill have been working with the Administration since last year to provide input on its permanent Medi-Cal telehealth proposal, which is being advanced via the state budget process this year. CAPH is pleased with the Administration's collaboration and partnership on this effort and the overall changes that have been made over the last year. The recent amendments to this bill reflect the Administration's trailer bill language with the additional changes cosponsors are seeking to it, including a few areas that we are still working to resolve with the Administration. Altamed writes telehealth has huge potential to expand access to high-quality virtual care for all Californians and this bill will bolster access to care. It will ensure that patients facing physical barriers such as transportation and lacking alternative means to access care can do so in a safe and medically appropriate manner. Essential Access Health, a cosponsor of this bill writes, telehealth has become a crucial pathway for patients to access care during the pandemic and will remain so beyond the PHE period. Access to telehealth decreases barriers, increases access to care for patients, and reduces no-show rates significantly. Telephonic care in particular has become a reliable modality of care. Recent surveys conducted by the California HealthCare Foundation found that most patients would like the option of a telephone or video visit and would likely choose a phone or video visit over an in-person visit whenever possible. Essential Access Health conducted a survey of Title X provider network last fall and respondents reported that on average, nearly 60% of their remote sexual and reproductive health visits were conducted by telephone. Another cosponsor, Planned Parenthood Affiliates of California, writes centers now provide about 25% of their visits through telehealth – which includes both video and audio-only visits. The majority of Planned Parenthood's telehealth visits are for birth control, sexually transmitted infections screening and treatment, pregnancy counselling, gender affirming care, PrEP and PEP follow-ups, and UTI screenings. All visits, regardless of modality, meet the time, medical decision-making, and documentation requirements of billing codes to be reimbursed.

ARGUMENTS IN OPPOSITION: Teledoc Health believes provisions of this bill would create a dual standard that would make compliance impossible for providers furnishing services only through video synchronous or audio-only interactions. The consequences of this provision could mean that patients in California will have fewer options from which to choose when seeking virtual care. ATA Action writes that state policymakers should set rational guidelines that are fair to the provider of such services while reflecting the cost saving the effective use of telehealth technologies offers to the health care system. ATA Action suggest adopting language which grants provider the flexibility to accept reimbursement amounts less than the amount those providers would charge for the same service in

person. ATA Action has several concerns particularly with language establishing a patient-provider relationship via telehealth, patient consent, patient choice in telehealth modality, and certain referral provisions.

ASSEMBLY FLOOR: 78-0, 6/1/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Frazier

Prepared by: Teri Boughton / HEALTH / (916) 651-4111
8/26/22 15:31:59

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

SENATE RULES COMMITTEE
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 92
Author: Reyes (D) and McCarty (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 6-0, 6/23/21
AYES: Leyva, Ochoa Bogh, Cortese, Glazer, McGuire, Pan
NO VOTE RECORDED: Dahle

SENATE HUMAN SERVICES COMMITTEE: 4-1, 7/6/21
AYES: Hurtado, Cortese, Kamlager, Pan
NOES: Jones

SENATE APPROPRIATIONS COMMITTEE: 6-1, 8/11/22
AYES: Portantino, Bates, Bradford, Laird, McGuire, Wieckowski
NOES: Jones

ASSEMBLY FLOOR: 78-0, 5/27/21 - See last page for vote

SUBJECT: Preschool and child care and development services: family fees

SOURCE: Association of American University Women
California Child Care Resource and Referral Network
Child Care Law Center
Child Care Resource Center
Parent Voices

DIGEST: This bill prohibits, subject to an appropriation, (1) family fees for state preschool and child care services from exceeding one percent of a family's monthly income; and (2) family fees from being charged to a family with an adjusted monthly family income below 75 percent of the state median family income.

Senate Floor Amendments of 8/25/22 specify that state preschool program providers and providers of subsidized child care are not to absorb any reduction in

pay for the space or voucher on account of any waiver of or reduction in family fees; and prohibit the number of contracted spaces or vouchers from being reduced on account of any reduction in the collection of family fees.

Senate Floor Amendments of 8/22/22 (1) delete the requirement that state preschool and subsidized child care providers be reimbursed for the full contract regardless of any reduction in family fees; and, (2) clarify that the provisions of this bill are to become effective on July 1, 2023 (upon an appropriation).

ANALYSIS:

Existing law:

1) Requires the Department of Social Services (DSS), in consultation with the California Department of Education (CDE), to establish a fee schedule for families using preschool and child care and development services. Existing law requires the family fee schedule to retain a single flat monthly fee per family and to differentiate between fees for part-time care and full-time care. (Welfare and Institutions Code § 10290)

2) Requires, families to be assessed a single flat monthly fee for all state-subsidized services, using the most recently approved family fee schedule, including California state preschool program services administered by CDE, based on income, certified family need for full-time or part-time care services, and enrollment, and prohibits family fees from being based on actual attendance. (WIC § 10290)

3) Requires DSS to design the new family fee schedule based on the most recent census data available on state median family income in the past 12 months, adjusted for family size. (WIC § 10290)

4) Prohibits the revised fees shall not exceed 10 percent of the family's monthly income, and requires DSS to first submit the adjusted fee schedule to the Department of Finance for approval. (WIC § 10290)

5) Prohibits family fees from being collected for the 2021–22 and 2022–23 fiscal years, and requires, during the 2022–23 fiscal year, contractors to reimburse subsidized childcare providers for the full amount of the certificate or voucher without deducting family fees. (WIC § 10290)

6) Requires the Superintendent of Public Instruction (SPI) to use the fee schedule developed in conjunction with DSS for families using full-day state preschool services. (Education Code § 8252)

7) Requires that families be assessed a single flat monthly fee for all state subsidized early childhood services received, including California state preschool program services and services received through childcare and development programs administered by DSS. (EC § 8252)

8) Prohibits family fees from being collected for the 2022–23 fiscal year, and requires contractors to reimburse providers operating within a family childcare home education network for the full amount of the certificate or voucher without deducting family fees. (EC § 8252)

This bill prohibits, subject to an appropriation, (1) family fees for state preschool and child care services from exceeding one percent of a family's monthly income; and, (2) family fees from being charged to a family with an adjusted monthly family income below 75 percent of the state median family income. Specifically, this bill:

1) Provides, subject to an appropriation expressly for this purpose, an exception to family fees from being set at no higher than 10 percent of the family's monthly income, to prohibit family fees from:

   a) Exceeding one percent of the family's monthly income.

   b) Being charged to a family with an adjusted monthly family income below 75 percent of the state median income.

2) Specifies that state preschool program providers and providers of subsidized child care are not to absorb any reduction in pay for the space or voucher on account of any waiver of or reduction in family fees.

3) Prohibits the number of California state preschool program and childcare contracted spaces, and the number of childcare contracted spaces and vouchers, from being reduced on account of any reduction in the collection of family fees.

4) Deletes obsolete references to family fees for the 2021-22 fiscal year.

Comments

Need for the bill. According to the author, "California is one of the most expensive states for parents who need child care services. In Los Angeles County and statewide, the average two-parent working family spends around 20% of their annual income on child care. There is broad consensus among child care experts and economists that spending more than 7% of annual income on child care places economic stress on working families.

"While there are a number of State and Federally funded programs that help families pay for child care, families who need care must still pay family fees which can make subsidized care unaffordable. With limited disposable income, working families struggle to pay high fees and are forced to make difficult decisions about basic needs such as food, shelter, clothing, and keeping up with fee payments. A recent study found that, in Sacramento County, at least 10% of families paying fees are on payment plans for back fees they have been unable to afford.

"These families are at significant risk of losing their subsidized child care which can, in turn, jeopardize their employment or education. This places them at greater risk of reliance on the state's other welfare programs and prevents families from rising out of poverty. As families earn raises and their income rises, so do their family fees, which then erases any economic gains they have made. The current fee structure penalizes families for their hard work.

"Childcare is facing a statewide crisis due to the impacts of the pandemic that has magnified pre-existing disparities and created intense financial insecurity for childcare workers, childcare centers and parents. In light of the public health crisis and economic recession, parents need affordable child care now more than ever in order to continue providing for their families."

Family fee schedule. As noted in the Assembly committee analyses, the federal Child Care and Development Fund requires states to establish a sliding fee scale for families that receive childcare services supported by federal funds. The fee: (1) helps families afford childcare and enables choice of a range of childcare options; (2) is based on income and the size of the family and may be based on other factors as appropriate, but shall not be based on the cost of care or amount of subsidy payment; (3) provides for affordable family fees that are not a barrier to families receiving assistance; and (4) at the state's discretion, allows for family fees to be waived for families whose incomes are at or below the poverty level for a family of the same size, that have children who receive or need to receive protective services, or that meet other criteria established by the state.

Existing law requires DSS, in consultation with CDE, to establish a family fee schedule that is based on specified factors, and requires a new family fee schedule be developed annually. Family fees have been waived since July 2020 and are statutorily waived through the 2022-23 fiscal year. The family fee schedule that was to go into effect July 1, 2020, include the following examples (not a comprehensive list): (1) A family of four with a monthly income of approximately $3,500 would have been assessed a $70 monthly family fee for part-time care, or a $140 monthly family fee for full-time care; (2) A family of four with a monthly

income of approximately $6,000 would have been assessed a $236 monthly family fee for part-time care, or a $471 monthly family fee for full-time care. The DSS will need to develop a new family fee schedule before the waiver of all family fees expires on July 1, 2023.

Extends temporary waivers of family fees for lowest-income and further caps fees for families who must pay. On April 4, 2020, the Governor signed Executive Order N-45-20, enacted in SB 820 (Committee on Budget and Fiscal Review, Chapter 110, Statutes of 2020) to facilitate child care for children of essential critical infrastructure workers by waiving certain programmatic and administrative requirements in response to the COVID-19 pandemic. Amongst the provisions was a waiver of family fees for all subsidized children in July and August 2020.

Additionally, SB 820 included a waiver of family fees, from September 1, 2020, to June 30, 2021, for families when all children in the family enrolled in subsidized early learning and care programs remain at home - either for distance learning services when the facility is closed, when all currently enrolled children are not able to receive in-person services due to a public health order, or for families sheltering-in-place due to COVID-19.

AB 210 (Committee on Budget, Chapter 62, Statutes of 2002), a budget trailer bill, extends the waiver of family fees through the 2022–23 fiscal year.

This bill essentially continues the fee waiver into perpetuity, if funded, for families with an adjusted monthly family income below 75 percent of the state median income. It is unknown how many additional families would not be required to pay fees. This bill additionally lowers the cap on family fees (for families above the 75 percent threshold) from up to 10 percent, to up to one percent, of a family's monthly income.

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

According to the Senate Appropriations Committee, this bill's provisions would be subject to an appropriation. The DSS estimates ongoing General Fund costs of approximately $134.2 million to restrict family fees from exceeding one percent of the family's monthly income and prohibit families with an adjusted monthly family income below 75 percent of the state median family income from being assessed a family fee. This estimate assumes that the monthly family fees assessed under this bill's criteria based on October 2021 enrollment would be $69,000 per month, with annual family fees at $1.75 million based on full enrollment of funded slots across the programs. The full year cost to waive family fees would be $135.97 million.

SUPPORT: (Verified 8/25/22)

Association of American University Women (co-source)
California Child Care Resource & Referral Network (co-source)
Child Care Law Center (co-source)
Child Care Resource Center (co-source)
Parent Voices (co-source)
Alliance of Californians for Community Empowerment Action
California Alternative Payment Program Association
California Association for the Education of Young Children
California Catholic Conference
California Child Care Coordinators Association
California Commission on the Status of Women and Girls
California Family Child Care Network
California Latinas for Reproductive Justice
California Partnership to End Domestic Violence
California Women's Law Center
Child Action, Inc.
Child Care Alliance of Los Angeles
Child Care Providers United
Children Now
Children's Defense Fund - CA
Early Care and Education Consortium
Equal Rights Advocates
Everychild California
First 5 Association of California
First 5 California
First 5 LA
First 5 San Bernardino
Head Start California
Los Angeles Unified School District
National Association of Social Workers, California Chapter
National Council of Jewish Women - California
National Council of Jewish Women Los Angeles
San Bernardino County
San Bernardino County District Advocates for Better Schools
Silicon Valley Community Foundation
Stronger California Advocates Network
The Education Trust - West
UDW/AFSCME Local 3930
United Ways of California

Valley Industry and Commerce Association
WeeCare
Women's Foundation California
YMCA Childcare Resource Services

OPPOSITION: (Verified 8/25/22)

None received

ASSEMBLY FLOOR: 78-0, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

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8/26/22 15:32:00

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

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

THIRD READING

Bill No: AB 99
Author: Irwin (D), et al.
Amended: 8/11/22 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 6-0, 6/30/22
AYES: Leyva, Ochoa Bogh, Cortese, Glazer, McGuire, Pan
NO VOTE RECORDED: Dahle

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 78-0, 5/27/21 - See last page for vote

SUBJECT: School safety: crisis intervention and targeted violence prevention program

SOURCE: Author

DIGEST: This bill requires the governing board of a school district, on or before August 1, 2023, to adopt policies for the establishment of a crisis intervention and targeted violence prevention program that assists in the identification and assessment of individuals who may be experiencing a crisis or whose behavior may indicate a threat to the health and safety of themselves, pupils, school staff, or other community members, and that provides referrals to appropriate services.

ANALYSIS:

Existing law:

1) Requires each school district or county offices of education (COE) to be responsible for the overall development of all comprehensive school safety plans for its schools operating kindergarten or any of grades 1 through 12. (Education Code § 32281)

2) Specifies that the schoolsite council or a school safety planning committee is responsible for developing the comprehensive school safety plan. (EC § 32281)

3) Requires that the comprehensive school safety plans include an assessment of the current status of school crime committed on school campuses and at school-related functions and identification of appropriate strategies and programs to provide or maintain a high level of school safety and address the school's procedures for complying with existing laws related to school safety, including child abuse reporting procedures; disaster procedures; an earthquake emergency procedure system; policies regarding pupils who commit specified acts that would lead to suspension or expulsion; procedures to notify teachers of dangerous pupils; a discrimination and harassment policy; the provisions of any schoolwide dress code; procedures for safe ingress and egress of pupils, parents, and school employees to and from school; a safe and orderly environment conducive to learning; and rules and procedures on school discipline. (EC § 32282)

4) Requires the comprehensive school safety plan to be evaluated at least once a year. (EC § 32282)

5) Encourages that, as school safety plans are reviewed, plans be updated to include clear guidelines for the roles and responsibilities of mental health professionals, community intervention professionals, school counselors, school resource officers, and police officers on school campuses, if the school district employs these professionals. (EC § 32282.1)

6) Requires the comprehensive school safety plan to be submitted annually to the school district or COE for approval and requires a school district or COE to notify the California Department of Education (CDE) by October 15 of every year of any school that is not in compliance. (EC § 32288)

7) Requires the Superintendent of Public Instruction (SPI), for apportionment purposes, to credit to a local educational agency (LEA) a material loss of average daily attendance (ADA) due to the following reasons, provided the loss has been established to the satisfaction of the SPI by affidavits of the members of the governing board or body of the LEA:

    a) Fire;
    b) Flood;
    c) Impassable roads;
    d) Epidemic;

e) Earthquake;
f) The imminence of a major safety hazard as determined by the local law enforcement agency; or
g) A strike involving transportation services to pupils provided by a non-school entity. (EC § 46392)

8) Requires the governing board of a school district to give diligent care to the health and physical development of pupils, and authorizes the district to employ properly certified persons for the work. (EC § 49400)

This bill requires the governing board of a school district, on or before August 1, 2023, to adopt policies for the establishment of a crisis intervention and targeted violence prevention program that assists in the identification and assessment of individuals who may be experiencing a crisis or whose behavior may indicate a threat to the health and safety of themselves, pupils, school staff, or other community members, and that provides referrals to appropriate services. Specifically, this bill:

1) Requires the school safety plan to include, but not be limited to both assessing the current status of school crime committed on school campuses and at school-related functions and identifying appropriate strategies and programs that will provide or maintain a high level of school safety and address the school's procedures for complying with existing laws related to school safety, which shall include the development as specified.

2) Requires each schoolsite council or school safety planning committee, in developing and updating a comprehensive school safety plan, shall, where practical, consult, cooperate, and coordinate with other schoolsite councils or school safety planning committees.

3) Specifies that the comprehensive school safety plan may be evaluated and amended, as needed, by the school safety planning committee, but shall be evaluated at least once a year, to ensure that the comprehensive school safety plan is properly implemented. An updated file of all safety-related plans and materials shall be readily available for inspection by the public.

4) Requires the comprehensive school safety plan, as written and updated by the schoolsite council or school safety planning committee, shall be submitted for approval as specified.

5) Requires the CDE to maintain and conspicuously post on its internet website a compliance checklist for developing a comprehensive school safety plan, and to update the checklist when necessary.

6) Establishes the School Threat Assessment and Resource Act that requires a LEA to adopt policies, on or before August 1, 2023, consistent with the National Threat Assessment Center, for the establishment of a crisis intervention and targeted violence prevention program, and referral process, that will identify and assess pupils whose health and safety of themselves, pupils, school staff, or other community members may be at risk, that are not imminent, with the goal to establish a safe school climate built on a culture of safety, respect, trust, and emotional support.

7) Requires each LEA to establish at least one multidisciplinary threat assessment and resource team (Team), new or consisting of a LEAs existing Team, at the county, district, regional, local district, or schoolsite levels, that includes, but is not limited to, school and school district personnel, behavioral health professionals, and at least one law enforcement representative, as specified, and sets other minimums such as designating a liaison to consultant with the Team and providing wraparound services with community partners to the extent those services are available.

8) Clarifies that a school district may decide to not include a law enforcement representative on their multidisciplinary threat assessment and resource team if the district consults with a representative from law enforcement in the writing and development of the policies adopted as specified.

9) Requires the team to coordinate with the appropriate special education administrator or instructor if the team has identified a pupil with an individualized education program (IEP).

10) Requires the policies adopted by the team to include, among other things, identifying how the team will identify threats and distinguish the types of threatening behavior that may represent a physical threat to the school community, identifying members within the school community to whom threatening behaviors should be reported, what methods should be used to make those reports, and the steps to be taken after a report is received, and establishing procedures that include practices for maintaining documentation, identifying sources of information, reviewing records, and conducting interviews consistent with existing law, including individual privacy and medical rights.

11) Encourages LEAs, in adopting policies, to include, among other things, investigative themes to guide the assessment process such as motive, communications, stressors, and planning, as recommended by the National Threat Assessment Center.

12) Authorizes the governing board of an LEA to establish a committee, or use an existing committee, to oversee the Team or Teams, with members that may, but are not limited to, having expertise in human resources, civil rights, school administration, behavioral or mental health, law enforcement, and parents and guardians. The oversight committee may require periodic reports from multidisciplinary threat assessment and resource teams that summarize and evaluate the activities of the teams consistent with existing laws, including those protecting individual privacy and medical rights.

13) Encourages an LEA that has a memorandum of understanding (MOU) with a local law enforcement agency to incorporate the applicable requirements of this section into that MOU.

14) Declares the Legislature encourages all plans, to the extent that resources are available, to include policies and procedures aimed at the prevention of bullying as comprehensive school safety plans are reviewed and updated.

15) Requires CDE to make materials pertaining to multidisciplinary threat assessment and resource teams available on its internet website and is encouraged to use and is encouraged to use existing resources that are consistent with the recommendations by the National Threat Assessment Center.

16) Clarifies that nothing in this section shall limit the ability of local educational agencies to bypass the multidisciplinary threat assessment and resource team and contact law enforcement when there is an imminent threat to the safety of pupils, school staff, or community members and does not alter the requirements or authority of law enforcement as specified in Education Code.

17) Specifies that after law enforcement conducts an investigation, as specified in Education Code, and determines that there is no threat or perceived threat that is imminent, may refer the identified pupil to the LEA's multidisciplinary threat assessment and resources team.

18) Clarifies a school district and any of its employees acting within the scope of their employment are immune from civil liability for any damages allegedly caused by, arising out of, or relating to compliance with the requirements of

this bill, but shall not apply to an act by the school district, its employee, or any other person acting in gross negligence, a crime, and a violation of any provision within this bill.

19) Finds and declares that a safe school environment is crucial to the healthy academic and social development of pupils and when implemented correctly, the use of behavioral threat assessment teams do not result in disparities among Black, Hispanic, and White pupils in terms of out-of-school suspensions, school transfers, or legal actions.

20) Declares that it is the intent of the Legislature to create and promote a safe school climate built on a culture of safety, respect, trust, and emotional support, including by encouraging communication, intervening in conflicts and bullying, and empowering pupils to share their concerns.

21) States that it is the intent of the Legislature hat schools develop comprehensive school safety plans using existing resources, including the materials and services of the partnership, pursuant to this chapter. It is also the intent of the Legislature that schools use the handbook developed and distributed by the School/Law Enforcement Partnership Program entitled "Safe Schools: A Planning Guide for Action" in conjunction with developing their plan for school safety.

Comments

1) *Need for the bill.* According to the author "There have been 36 shootings on California school campuses since 2000. Because research has shown that school shooters often share their school shooting ideations and/or suffer from mental health issues, early identification and marshaling of resources may avert a potential shooting and provide treatment to the student. A safe school environment is crucial to the healthy academic and social development of students. Perceived and actual safety also impact a range of outcomes, from staff retention to parent satisfaction. Most importantly, student perceptions of safety affect their academic achievement and engagement in learning. AB 99 is a proactive and comprehensive approach toward early detection and intervention for students who may harm themselves or others. Because there are so many threats made by students on school campuses, most of a passing and harmless nature, it is important to quickly identify threats that are substantive and pose a continuing risk to the school community. Using a multi-tiered system of support (MTSS), teams consisting of specially trained teachers, administrators, mental health professionals, special needs educators,

and law enforcement, will be able to rapidly identify, respond, and support students headed toward crisis."

2) *Traumatic events.* According to a 2018 study by the Pew Research Center, the majority of U.S. teens fear a shooting could happen at their school, and most parents share their concerns. Firearms are a leading cause of morbidity and mortality in the United States and accounted for more than 36,000 deaths and nearly 85,000 injuries in 2015. In 2020, California saw a troubling rise of more than 500 homicides, the largest jump in state history since record-keeping began in 1960. Gun homicides drive the rise. California saw 1,658 homicides in 2019; the number climbed to 2,161 in 2020—an increase of 503 homicides (or 30.3%). Of the 503 additional homicides, 460, or 91%, were gun related deaths. While the 2020 homicide rate is far lower than past peaks, the past year deviates from historically low rates of the last decade. Over the past few years, gun violence has risen to the forefront of public consciousness. The consequences of gun violence are more pervasive and affect entire communities, families, and children. With more than 25% of children witnessing an act of violence in their homes, schools, or community over the past year, and more than 5% witnessing a shooting. A 2004 report by the United States Secret Service and United States Department of Education found that over two-thirds of school shooters acquired the gun (or guns) used in their attacks from their own home or that of a relative (68 percent).

3) *Threat Assessment Teams in School.* According to the U.S Department of Education (USDE) "A threat assessment team is a group of officials that convene to identify, evaluate, and address threats or potential threats to school security. Threat assessment teams review incidents of threatening behavior by students (current and former), parents, school employees, or other individuals. Some schools may need assistance in determining whether a health or safety emergency exists in order to know whether a disclosure may be made under FERPA's health or safety emergency provision. Accordingly, members of a threat assessment team might include officials who can assist in making such decisions, such as school principals, counselors, school law enforcement unit officials, as well as outside medical and mental health professionals and local law enforcement officers."

   To aid in these efforts, the U.S. Secret Service National Threat Assessment Center (NTAC), in 2019 studied 41 incidents of targeted school violence that occurred at K-12 schools in the United States from 2008 to 2017 and published a report to help schools across the country establish threat assessment teams. This report builds on 20 years of NTAC research and guidance in the field of

threat assessment by offering an in-depth analysis of the motives, behaviors, and situational factors of the attackers, as well as the tactics, resolutions, and other operationally-relevant details of the attacks. The analysis suggests that many of these tragedies could have been prevented, and supports the importance of schools establishing comprehensive targeted violence prevention programs as recommended by the Secret Service *in Enhancing School Safety Using a Threat Assessment Model: An Operational Guide for Preventing Targeted School Violence*.
(https://www.secretservice.gov/sites/default/files/reports/2020-10/USSS_NTAC_Enhancing_School_Safety_Guide.pdf)

Threat assessment teams can discern serious from non-serious threats and help identify the appropriate response to each situation, which may not include law enforcement. CDE also provides information on its website to help schools develop school safety plans (https://www.cde.ca.gov/ls/ss/vp/cssp.asp)

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

According to the Senate Appropriations Committee, this bill would expand the existing comprehensive school safety plans mandate resulting in additional Proposition 98 General Fund costs that could be significant, potentially in the millions to tens of millions of dollars each year. This estimate assumes a cost of at least $10,000 - $20,000 for each school district in the state. However, a precise estimate will depend on how a school district implements this bill's requirements. Alternatively, this bill could lead to pressure for the state to increase the K-12 Mandates Block grant. (Proposition 98 General Fund)

SUPPORT: (Verified 8/11/22)

California Association of School Psychologist
Peace Officers Research Association of California
The Collective for Liberatory Lawyering

OPPOSITION: (Verified 8/11/22)

ACLU California Action
Black Parallel School Board
Congregations Organized for Prophetic Engagement
Dolores Huerta Foundation
Moving Individual Leadership for Public Advancement
National Center for Youth Law

Youth Justice Education Clinic, Center For Juvenile Law and Policy, Loyola Law School

ARGUMENTS IN SUPPORT: According to the Peace Officers Research Association of California "This bill would require the governing board of a school district to adopt policies on or before August 1, 2023, for the establishment of a crisis intervention and targeted violence prevention program that assists in the identification and assessment of individuals who may be experiencing a crisis or whose behavior may indicate a threat to the health and safety of themselves, pupils, school staff, or other community members and that provides referrals to appropriate services. AB 99 would also require those policies to include, among other things, provisions that identify the types of threatening behavior that may represent a physical threat to the school community and provisions requiring each school district to establish at least one multidisciplinary threat assessment and resource team, as provided."

ARGUMENTS IN OPPOSITION: According to ACLU California Action "Although school threat assessment sounds appealing, threat assessments do not serve their intended purpose of protecting students and preventing violence in school, including mass shootings. A major study of thousands of cases found that there was no report of a shooting that was attempted and averted by threat assessments. The study determined that it cannot be concluded that the threat assessment process prevented threats from being carried out. Furthermore, the report concluded that many threats were not serious and might not have been carried out even in the absence of a threat assessment. Threat assessments instead embed more police into schools, pushing youth of color and students with disabilities out of schools and into the school to prison pipeline. Numerous studies have found that students receiving special education were 3.9 times more likely, and Black students were 1.3 times more likely, to be referred for threat assessment. Students with disabilities are more likely to check certain common risk assessment factors and are more likely to be subsequently suspended after threat assessment referral than other students. Threat assessments can often lead to labeling and stigmatization, exclusionary discipline, referral to law enforcement for low-level or disability related behavior, arrest, immigration consequences, and violations of student privacy. Furthermore, AB 99 requires that threat assessment teams include behavioral health professionals. Given that a third of California's schools have no such staff, however, these team would lack the perspective of a school-based mental health professional who understands the unique needs and background of the particular school and student body. Rather than invest in processes that subject students to law enforcement involvement, we urge you to take steps to ensure there is adequate funding for community-based and school-based counselors, social

workers, psychologists and other evidence-based approaches like MTSS, restorative justice, and PBIS."

ASSEMBLY FLOOR: 78-0, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

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8/15/22 12:54:32

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

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THIRD READING

Bill No: AB 102
Author: Holden (D)
Amended: 8/22/22 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 6-0, 6/1/22
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, Pan
NO VOTE RECORDED: McGuire

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 66-0, 1/24/22 - See last page for vote

SUBJECT: Pupil attendance at community colleges: College and Career Access Pathways partnerships: county offices of education

SOURCE: Author

DIGEST: This bill allows county offices of education (COEs) and adult education programs to enter into College and Career Access Pathways (CCAP) partnerships with community college districts and removes the sunset date and special admit cap for the CCAP program.

Senate Floor Amendments of 8/22/22 include double-jointing language to avoid chaptering issues.

ANALYSIS:

Existing law:

1) Authorizes a student to undertake courses at a California Community College (CCC) if the governing board of a school district, upon recommendation of the principal of the student's high school and with parental consent, determines a student would benefit from advanced or vocational work. The student may

attend the CCC during any session or term as a special part-time or full-time student and take one or more courses of instruction offered at the CCC. Provides methods for parents to petition for students to attend community college courses and methods for appeals in case of a denial. Includes criteria for allocating attendance and funding for high school students who attend courses at the community college.

2) Stipulates that summer courses may be offered if a student has met specified conditions and if the principal has not recommended summer session attendance to more than 5% of the student's grade population in the previous year. All physical education courses must adhere to the 5% threshold and the following courses are exempt until January 1, 2027:

   a) Courses which are part of a College and Career Access pathway and meet specified criteria; or

   b) Courses which are lower division, college-level courses that are either a college-level course that are part of the Intersegmental General Education Transfer Curriculum or applies towards the general education requirements of the CSU; or,

   c) Courses which are a college-level occupational course, as defined.

3) Authorizes, until January 1, 2027, the governing board of a CCC district to enter into a CCAP partnership with the governing board of a school district or the governing body of a charter school for the purpose of offering or expanding dual enrollment opportunities for pupils who may not already be college bound or who are underrepresented in higher education, with the goal of developing seamless pathways from high school to community college for career technical education or preparation for transfer, improving high school graduation rates, or helping high school pupils achieve college and career readiness.

4) Requires that the CCAP partnership agreement be approved by the respective governing boards of the CCC district and the school district or governing body of the charter school. The governing boards or body shall:

   a) Consult with and consider the input of the appropriate local workforce development board in order to determine to what extent the career technical education pathways are aligned with regional and statewide employment needs; and,

b) Present, take comments from the public on, and approve or disapprove of the CCAP partnership agreement at an open public meeting of the governing board of the district or governing body of the charter school.

5) Requires the CCC Chancellor's Office to report to the Department of Finance (DOF) and Legislature annually on the amount of full-time equivalent students (FTES) claimed by each CCC district for high school pupils enrolled in non-credit, non-degree applicable, and degree applicable courses; and provides that, for purposes of receiving state apportionments, CCC districts may only include high school students within the CCC district's report on FTES if the students are enrolled in courses that are open to the general public, as specified. Additionally, current law requires the governing board of a CCC district to assign a low enrollment priority to special part-time or full-time students in order to ensure that these students do not displace regularly admitted community college students.

6) Requires the Chancellor of the CCC, on or before January 1, 2021, to prepare a summary report that includes an evaluation of the CCAP partnerships, an assessment of the growth of special admits system wide and by campus, and recommendations for improving the CCAP partnerships, as specified. Requires the report to be transmitted to the Legislature, the DOF, and the Superintendent of Public Instruction (SPI). Requires Chancellor of the CCC to annually collect specified data from the CCC and school districts participating in a CCAP partnership. Requires the data to include:

   a) The total number of high school pupils by school site enrolled in each CCAP partnership, disaggregated by gender and ethnicity;

   b) The total number of CCC courses taken by CCAP partnership participants disaggregated by category, type, and school site;

   c) The total number and percentage of courses successfully completed by CCAP partnership participants disaggregated by course category, type, and school site;

   d) The total number of FTEs generated by the CCAP partnership community college district participants; and,

   e) The total number of full-time equivalent students served online by the CCAP partnership college district participants.

This bill:

1) Removes the CCAP sunset date of January 1, 2027.

2) Authorizes the governing board of a CCC district to enter into a CCAP partnership with the governing board of a COE for the purpose of offering or expanding dual enrollment opportunities for pupils who may not already be college bound or who are underrepresented in higher education, with the goal of developing seamless pathways from high school to community college for career technical education or preparation for transfer, improving high school graduation rates, or helping high school pupils achieve college and career readiness.

3) Defines "high school" to include a community school, continuation high school, juvenile court school, or adult education program offering courses for high school diplomas or high school equivalency certificates.

4) Requires the governing board of a COE when entering into a CCAP partnership to do the following:

   a) Consult with, and consider the input of the appropriate local workforce development board to determine the extent to which the pathways are aligned with regional and statewide employment needs; and,

   b) Present, take comments from the public on, and approve or disapprove the CCAP partnership agreement at an open public meeting of the COE governing board.

5) Requires the CCAP partnership agreement to identify a point of contact for the participating CCC and the participating COE.

6) States that a CCC district may enter into an agreement with a COE outside its service area as long as there exists an established agreement permitting the CCAP partnership between the local CCC and the CCC district seeking the CCAP partnership.

7) Requires that both the CCC district and the COE comply with local collective bargaining agreements and all state and federal reporting requirements regarding the qualifications of teachers and faculty who teach a CCAP partnership course.

8) Requires that the CCAP partnership agreement include whether the CCC district or COE will be the employer of record for purposes of assignment monitoring and reporting to the COE, and which will assume reporting responsibility pursuant to federal teacher quality mandates.

9) Requires that any remedial course taught by CCC faculty on a high school campus be offered to high school pupils who do not meet grade 10 or 11 level standards as determined by the COE. These courses will be the result of a collaborative effort between high school and CCC faculty to deliver innovative remediation courses for the purpose of ensuring the student is prepared for college-level work upon graduation.

10) Prohibits the duplication of state funding for instructional activity provided to a student participating in a CCAP agreement.

11) Requires that a high school student, identified as a special part-time or full-time student at the CCC, who attends a CCAP agreement course is credited or reimbursed as specified, if the participating COE has not received funding for the same instructional activity.

12) Requires the Chancellor of the CCC to annually collect data from the CCCs and COEs participating in a CCAP partnership. Requires the data to include:

    a) The total number of high school pupils by school site enrolled in each CCAP partnership, disaggregated by gender and ethnicity;

    b) The total number of CCC courses taken by CCAP partnership participants disaggregated by category, type, and school site;

    c) The total number and percentage of courses successfully completed by CCAP partnership participants disaggregated by course category, type, and school site;

    d) The total number of full-time equivalent students generated by the CCAP partnership community college district participants; and,

    e) The total number of full-time equivalent students served online by the CCAP partnership college district participants.

13) Removes the 10 percent cap of full time equivalent students claimed as special admits.

Comments

1) *Need for this bill.* According to the author's office, "Research has demonstrated that dual enrollment students are more likely to enter college, persist to completion, and graduate. The positive effects of dual enrollment on college degree attainment are more pronounced for low-income students than their more affluent peers. AB 102 ensures that dual enrollment continues to be available to California students, including youth involved in the juvenile justice system, as an approach to close the persistent achievement and equity gap. AB 102 shows a commitment to expanding and improving CCAP. This program yields public savings by reducing the time it takes to earn a college degree and improving the efficiency and effectiveness of higher education."

2) *Concurrent enrollment.* Concurrent enrollment provides pupils the opportunity to enroll in college courses and earn college credit while still enrolled in high school. Generally, a pupil is allowed to concurrently enroll in a community college as a "special-admit" while still attending high school, if the pupil's school district determines that the pupil would benefit from "advanced scholastic or vocational work." Special-admit students have typically been advanced pupils wanting to take more challenging coursework or pupils who come from high schools where Advanced Placement or honors courses are not widely available. Additionally, programs such as middle college high schools and early college high schools use concurrent enrollment to offer instructional programs for at-risk pupils that focus on college preparatory curricula. These programs are developed through partnerships between a school district and a community college.

3) *College Access and Career Pathways program.* The CCAP program allows for partnerships between school and community college districts such that high school students dual-enroll in up to 15 community college units per term; students may enroll in no more than four courses per term. The goals of CCAP are to develop seamless pathways from high school to community college for career technical or general education transfer, improve high school graduation rates, or help high school students achieve college and career readiness. Courses must be part of an academic program defined in a CCAP agreement and meet criteria for both a high school diploma and an Associate of Arts or other credentials.

Unlike other concurrent enrollment options, CCAP offers dual enrollment as a pathway, rather than a series of disconnected individual courses, and provides greater flexibility in the delivery of courses at the high school campus.

4) *CCAP Legislative Report.* In April, the CCC Chancellor's Office released its legislative report on the CCAP program. Dual enrollment is growing overall and in terms of student participation; however, the number of community colleges participating in CCAP remains limited. The Chancellor's Office estimates that 37.5% of students participating in dual enrollment as all special admits were in CCAP partnerships.

   The report includes several recommendations, including eliminating the sunset date for CCAP partnerships, as this bill proposes. The Chancellor's Office believes that eliminating the sunset date will allow CCAP partnerships to continue and mature, as well as remove any worry that new partnerships will have to start from scratch in a few years.

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

According to the Senate Appropriations Committee, this bill could result in additional, unknown Proposition 98 General Fund costs in apportionment funds for community colleges to admit additional high school students as part of CCAP partnerships. A precise amount would depend on the number of additional students that participate in these partnerships and take community college courses as a result of the bill, which is difficult to determine. For example, if 50 additional FTES statewide participated at the current funding rate of $5,457 per student, the costs would be $272,850. However, there could be longer-term cost savings to the extent that student enrollment in CCAP partnerships results in fewer students requiring remedial coursework when they enroll in public postsecondary institutions after high school.

The Chancellor's Office indicates the potential need for additional resources depending on how many COEs choose to participate in CCAP and whether there is a significant increase in CCAP agreements.

SUPPORT: (Verified 8/23/22)

American Federation of State, County and Municipal Employees
Cabrillo Community College District
California Charter Schools Association
California Community College Chancellor's Office

California Edge Coalition
Campaign for College Opportunity
Cerritos College
Lake Tahoe Community College
League of Women Voters of California
Long Beach Community College District
Los Angeles Community College District
Los Angeles County Office of Education
Office of the Riverside County Superintendent of Schools
Pasadena Area Community College District
Riverside County Public K-12 School District Superintendents
San Jose-Evergreen Community College District
Santa Monica College
The Education Trust – West
TV Academy

OPPOSITION: (Verified 8/23/22)

None received

ASSEMBLY FLOOR: 66-0, 1/24/22
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Cervantes, Choi, Cooley, Cunningham, Daly, Davies, Flora, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Arambula, Mia Bonta, Carrillo, Chen, Cooper, Megan Dahle, Eduardo Garcia, Mayes, McCarty, Waldron

Prepared by: Ian Johnson / ED. / (916) 651-4105
8/23/22 14:48:17

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 256
Author: Kalra (D), Kamlager (D), Robert Rivas (D) and Santiago (D), et al.
Amended: 8/24/22 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-1, 6/29/21
AYES: Bradford, Kamlager, Skinner, Wiener
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 45-21, 6/1/21 - See last page for vote

SUBJECT: Criminal procedure: discrimination

SOURCE: ACLU California Action
American Friends Service Committee
California Coalition for Women Prisoners
Californians United for a Responsible Budget
Coalition for Humane Immigrant Rights
Ella Baker Center for Human Rights
Initiate Justice
League of Women Voters of California
NextGen
Silicon Valley De-Bug

DIGEST: This bill makes the California Racial Justice Act of 2020 (CRJA), which prohibits the state from seeking or obtaining a conviction or sentence on the basis of race, ethnicity, or national origin, apply retroactively and makes other changes.

Senate Floor Amendments of 8/24/22 (1) delete definition of "juror" and the provision in the bill relating to prospective jurors; (2) amend the provision in the

bill that requires the state to prove that the violation was harmless beyond a reasonable doubt in specified cases to instead require the state to prove beyond a reasonable doubt that the violation did not contribute to the judgment; and (3) add double-jointing language with SB 467 (Wiener) to avoid chaptering issues.

ANALYSIS:

Existing law:

1) Establishes the CRJA which prohibits the state from seeking or obtaining a criminal conviction or seeking, obtaining or imposing a sentence on the basis of race, ethnicity, or national origin. (Pen. Code, § 745.)

2) Provides that a violation of the CRJA is established if the defendant proves, by a preponderance of the evidence, any of the following:
   a) The judge, an attorney in the case, a law enforcement officer involved in the case, an expert witness, or juror exhibited bias or animus towards the defendant because of the defendant's race, ethnicity, or national origin;
   b) During the defendant's trial, in court and during the proceedings, the judge, an attorney in the case, a law enforcement officer involved in the case, an expert witness, or juror, used racially discriminatory language about the defendant's race, ethnicity, or national origin, or otherwise exhibited bias or animus towards the defendant because of the defendant's race, ethnicity, or national origin, whether or not purposeful, except as specified;
   c) The defendant was charged or convicted of a more serious offense than defendants of other races, ethnicities, or national origins who commit similar offenses and are similarly situated, and the evidence establishes that the prosecution more frequently sought or obtained convictions for more serious offenses against people who share the defendant's race, ethnicity, or national origin in the county where the convictions were sought or obtained;
   d) A longer or more severe sentence was imposed on the defendant than was imposed on other similarly situated individuals convicted of the same offense, and longer or more severe sentences were more frequently imposed for that offense on people that share the defendant's race, ethnicity, or national origin than on defendants of other races, ethnicities, or national origins in the county where the sentence was imposed; or,
   e) A longer or more severe sentence was imposed on the defendant than was imposed on other similarly situated individuals convicted of the same offense, and longer or more severe sentences were more frequently imposed for the same offense on defendants in cases with victims of one race, ethnicity, or national origin than in cases with victims of other races,

ethnicities, or national origins, in the county where the sentence was imposed. (Pen. Code, § 745, subd. (a).)

3) States that a defendant may file a motion in the trial court, of if judgement has been imposed, may file a petition for writ of habeas corpus or a motion to vacate the conviction or sentence in a court of competent jurisdiction alleging a violation of the CRJA. (Pen. Code, § 745, subd. (b).)

4) States that if a motion is filed in the trial court and the defendant makes a prima facie showing of a violation of the CRJA, the trial court shall hold a hearing. (Pen. Code, § 745, subd. (c).)

5) Provides that at the hearing, evidence may be presented by either party, including but not limited to, statistical evidence aggregate data, expert testimony, and the sworn testimony of witnesses. The court may also appoint an independent expert. (Pen. Code, § 745, subd. (c)(1).)

6) States that the defendant shall have the burden of proving a violation of the CRJA by a preponderance of the evidence and at the conclusion of the hearing, the court shall make findings on the record. (Pen. Code, § 745, subd. (c)(2) & (3).)

7) Authorizes a defendant to file a motion requesting disclosure to the defense of all evidence relevant to a potential violation of the CRJA in the possession or control of the state. A motion under this section shall describe the type of records or information the defendant seeks and upon a showing of good cause, the court shall order the records to be released. Upon a showing of good cause, and if the records are not privileged, the court may permit the prosecution to redact information prior to disclosure. (Pen. Code, § 745, subd. (d).)

8) States that notwithstanding any other law, except for an initiative approved by the voters, if the court finds, by a preponderance of the evidence, a violation of the CRJA, the court shall impose a remedy specific to the violation found from the following list: (a) declare a mistrial, if requested by the defendant; (b) discharge the jury panel and empanel a new jury; and (c) dismiss enhancements, special circumstances, special allegations, or reduce one or more charges if the court determines that it would be in the interest of justice. (Pen. Code, § 745, subd. (e).)

9) States that when a judgment has been entered, if the court finds that a conviction was sought or obtained in violation of the CRJA, the court shall vacate the conviction and sentence, find that it is legally invalid, and order new

proceedings consistent with the CRJA's provisions. (Pen. Code, § 745, subd. (e)(2)(A).

10) States that when a judgement has been entered, if the court finds that only the sentence was sought, obtained or imposed in violation of the CRJA, the court shall vacate the sentence, find that it is legally invalid and impose a new sentencing, but shall not impose a sentence greater than that previously imposed. (Pen. Code, § 745, subd. (e)(2)(B).)

11) Prohibits the imposition of the death penalty on a defendant when the court finds that there has been a violation of the CRJA. (Pen. Code, § 745, subd. (e)(3).)

12) Clarifies that the remedies available under the CRJA do not foreclose any other remedies available under the United States Constitution, the California Constitution, or any other law. (Pen. Code, § 745, subd. (e)(4).)

13) States that the CRJA applies to adjudications and dispositions in the juvenile delinquency system and that its provisions do not prevent the prosecution of hate crimes. (Pen. Code, § 745, subd. (f) & (g).)

14) Provides the following definitions for purposes of the CRJA:
    a) "More frequently sought or obtained" or "more frequently imposed" means that statistical evidence or aggregate date demonstrate a significant difference in seeking or obtaining convictions or in imposing sentences comparing individuals who have committed similar offenses and are similarly situated, and the prosecution cannot establish race-neutral reasons for the disparity.
    b) "Prima facie showing" means that the defendant produces facts that, if true, establish that there is a substantial likelihood that a violation of the CRJA has occurred. "Substantial likelihood" requires more than a mere possibility, but less than a standard of more likely than not.
    c) "Racially discriminatory language" means language that, to an objective observer, explicitly or implicitly appeals to racial bias, including, but not limited to, racially charged or racially coded language, language that compares the defendant to an animal, or language that references the defendant's physical appearance, culture, ethnicity, or national origin. Evidence that particular words or images are used exclusively or disproportionately in cases where the defendant is of a specific race, ethnicity, or national origin is relevant to determining whether language is discriminatory.

d) "State" includes the Attorney General, a district attorney, or a city prosecutor. (Pen. Code, § 745, subd. (h).)

15) States that when a defendant shares a race, ethnicity, or national origin with more than one group, the defendant may aggregate data among groups to demonstrate a violation of the CRJA. (Pen. Code, § 745, subd. (i).)

16) States that the CRJA applies prospectively in cases in which judgement has not been entered prior to January 1, 2021. (Pen. Code, § 745, subd. (j).)

This bill:

1) Provides that the CRJA shall also apply retroactively as follows:
   a) Commencing January 1, 2023, to all cases in which, at the time of the filing the petition raising a claim of a violation of the CRJA, the petitioner is sentenced to death or to cases in which a motion to vacate a judgment is filed because of actual or potential immigration consequences related to the conviction or sentence, regardless of when the judgment or disposition became final;
   b) Commencing January 1, 2024, to all cases in which, at the time of the filing of the petition raising a claim of a violation of the CRJA, the petitioner is currently serving a sentence in the state prison or in a county jail on a realigned felony, or committed to DJJ for a juvenile disposition, regardless of when the judgment or disposition became final;
   c) Commencing January 1, 2025, to all cases raising a claim of a violation of the CRJA in which judgment became final for a felony conviction or juvenile disposition that resulted in commitment to DJJ on or after January 1, 2015; and,
   d) Commencing January 1, 2026, to all cases raising a claim of a violation of the CRJA in which judgment was for a felony conviction or juvenile disposition that resulted in commitment to DJJ, regardless of when the judgment or disposition became final.

2) States that for petitions that are filed in cases for which judgment was entered before January 1, 2021, and only in those cases, if the petition is based on exhibited bias or animus or the use of discriminatory language, as provided, the petitioner shall be entitled to relief as specified, unless the state proves beyond a reasonable doubt that the violation did not contribute to the judgment.

3) States that if the motion is based in whole or in part on conduct or statements by the judge, the judge shall disqualify themselves from any further proceedings.

4) Provides that a motion made at trial shall be made as soon as practicable upon the defendant learning of the alleged violation. A motion that is not timely may be deemed waived, in the discretion of the court.

5) States that for purposes of the motion and hearing, out-of-court statements that the court finds trustworthy and reliable, statistical evidence, and aggregated data are admissible for the limited purpose of determining whether a violation of the CRJA has occurred.

6) Clarifies that the defendant need not prove intentional discrimination.

7) Clarifies that if a defendant files a motion requesting disclosure to the defense of relevant evidence, the court may subject disclosure to a protective order in order to protect a privacy right or privilege and if a statutory privilege or constitutional privacy right cannot be adequately protected by redaction or protective order, the court shall not order release of the records.

8) Provides that if the court finds that the only violation of the CRJA that occurred is based on a defendant being charged or convicted of a more serious offense than defendants of other races, ethnicities, or national origins, the court may modify the judgment to a lesser included or lesser related offense. On resentencing, the court shall not impose a new sentence greater than that previously imposed.

9) Clarifies that the CRJA also applies to dispositions in the juvenile delinquency system and adjudications to transfer a juvenile case to adult court.

10) Amends the definition of "more frequently sought or obtained" or "more frequently imposed" to mean that the totality of the evidence demonstrates a significant difference in seeking or obtaining convictions or in imposing sentences comparing individuals who have engaged in similar conduct and are similarly situated, and the prosecution cannot establish race-neutral reasons for the disparity.

11) Provides that evidence of the above may include statistical evidence, aggregated data, or nonstatistical evidence. Statistical significance is a factor the court may consider, but is not necessary to establish a significant difference. In evaluating the totality of the evidence, the court shall consider whether systemic and institutional racial bias, racial profiling, and historical

patterns of racially biased policing and prosecution may have contributed to, or caused differences observed in, the data or impacted the availability of data overall.

12) States that race-neutral reasons shall be relevant factors to charges, convictions, and sentences that are not influenced by implicit, systemic, or institutional bias based on race, ethnicity, or national origin.

13) Defines "relevant factors" as applied to sentencing to mean the factors in the California Rules of Court that pertain to sentencing decisions and any additional factors required to or permitted to be considered in sentencing under the state law and under the state and federal constitutions.

14) Defines "similarly situated" to mean that factors that are relevant in charging and sentencing are similar and do not require that all individuals in the comparison group are identical. A defendant's conviction history may be relevant to the severity of the charges, convictions, or sentences. If it is a relevant factor and the defense produces evidence that the conviction history may have been impacted by racial profiling or historical patterns of racially biased policing, the court shall consider the evidence.

15) Provides that a defendant may appear remotely, and the court may conduct the hearing through the use of remote technology, unless counsel indicates that the defendant's presence in court is needed.

16) Makes conforming changes to existing law on habeas corpus relief based on a violation of the CRJA.

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

According to the Senate Appropriations Committee:

- *Courts:* Judicial Council estimates increased workload costs between the following ranges resulting from this bill: $1.4 million to $2 million in the first year, $1.1 million to $1.7 million in the second year, and $900,000 to $1.4 million for the third and fourth years each. While the superior courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to increase the amount appropriated to backfill for trial court operations. The 2022-23 budget includes an ongoing annual allocation of $151.5 million and a one-time allocation of $10.3 million backfill from the General Fund in order to address declining revenue to the Trial Court Trust Fund.

- *Department of Justice (DOJ):* The DOJ reports estimated costs of $509,000 in 2022-23 (3.0 PY), $2.1 million in 2023-24 (8.0 PY), $2 million in 2024-25 (8.0 PY), $1.3 million in 2025-26 and 2026-27 (5.0 PY) (General Fund). Actual costs would depend on the number of petitions that would be filed and appealed.
- *Transporting habeas petitioners:* Unknown, potentially-significant workload costs in the thousands of dollars to the Department of Corrections and Rehabilitation (CDCR) to supervise and transport individuals in state custody to attend hearings related to this measure. Actual costs would depend on the number of incarcerated persons who file a petition and make a prima facie showing that they are entitled to relief and for whom remote/video appearances at the proceedings are not exercised. (General Fund)
- *Incarceration savings:* Unknown potentially savings annually in reduced state incarceration costs for individuals whom the courts resentence to a shorter term of imprisonment and/or release from state facilities resulting from the successful prosecution of a writ of habeas corpus. The estimated per capita cost to detain a person in a state prison for 2022-23 is $111,446 annually, with an annual marginal rate per person of over $13,000. Actual savings would depend on the number of individuals who are resentenced and who avoid incarceration in state prison because of this measure. Aside from marginal cost savings per individual, however, CDCR would experience an institutional cost savings only if the number of persons incarcerated decreased to a level that would effectuate the closing of a prison yard or wing (General Fund).

SUPPORT: (Verified 8/24/22)

American Civil Liberties Union California Action (co-source)
American Friends Service Committee (co-source)
Ella Baker Center for Human Rights (co-source)
California Coalition for Women Prisoners (co-source)
Californians United for a Responsible Budget (co-source)
Coalition for Humane Immigrant Rights (co-source)
Initiate Justice (co-source)
League of Women Voters of California (co-source)
NextGen (co-source)
Silicon Valley De-Bug (co-source)
A New Path
Afro-Upris
All of Us or None
Alliance San Diego

American Constitution Society Chapter for Santa Clara University School of Law
Amnesty International USA
Anti-Defamation League
API Equality – LA
Asian Americans Advancing Justice – California
Asian Law Alliance
Asian Prisoner Support Committee
Asian Solidarity Collective
Bay Rising
Bend the Arc: Jewish Action
Black Women for Wellness Action Project
California Access Coalition
California Alliance for Youth and Community Justice
California Attorneys for Criminal Justice
California Calls
California Council of Community Behavioral Health Agencies
California Federation of Teachers, AFL-CIO
California Immigrant Policy Center
California Innocence Coalition
California League of United Latin American Citizens
California Nurses Association
California Public Defenders Association
California State PTA
California Teachers Association
Californians for Safety and Justice
Californians United for A Responsible Budget
Center on Juvenile and Criminal Justice
Change Begins With Me Indivisible Group
Clergy and Laity United for Economic Justice
Coalition for Justice and Accountability
Communities United for Restorative Youth Justice
Community Advocates for Just and Moral Governance
Community Agency for Resources Advocacy & Services
Community Legal Services in East Palo Alto
Consumer Attorneys of California
Courage California
Cure California
Death Penalty Focus
Del Cerro for Black Lives Matter
Democratic Club of Vista

Democratic Party of the San Fernando Valley
Democratic Woman's Club of San Diego County
Democrats of Rossmoor
Dignity and Power Now
Disability Rights California
Drug Policy Alliance
Ella Baker Center for Human Rights
End Solitary Santa Cruz County
FUEL - Families United to End Life Without the Possibility of Parole
Felony Murder Elimination Project
Fresno Barrios Unidos
Friends Committee on Legislation of California
Hillcrest Indivisible
Human Impact Partners
Immigrant Legal Resource Center
Initiate Justice
L.A. Coalition for Excellent Public Schools
Law Enforcement Action Partnership
League of Women Voters of California
Legal Services for Prisoners With Children
Long Beach Immigrant Rights Coalition
Los Angeles County District Attorney's Office
Los Angeles Urban League
Mission Impact Philanthropy
Naral Pro-Choice California
National Association of Social Workers, California Chapter
National Center for Youth Law
National Institute for Criminal Justice Reform
No Justice Under Capitalism
Oakland Privacy
Onejustice
Partnership for the Advancement of New Americans
Pillars of The Community
Project Rebound Consortium
Public Counsel
Racial Justice Allies of Sonoma County
Re:store Justice
Resilience Orange County
Reuniting Families Contra Costa
Rubicon Programs

San Bernardino Free Them All
San Diego Progressive Democratic Club
San Francisco Public Defender
San Jose State University Human Rights Institute
San Mateo County Participatory Defense
Santa Barbara Women's Political Committee
SD-QTPOC Collectivo
Secure Justice
SEIU California
Showing Up for Racial Justice Bay Area
Showing Up for Racial Justice Contra Costa County
Showing Up for Racial Justice North County San Diego
Showing Up for Racial Justice San Diego
Showing Up for Racial Justice San Francisco
Smart Justice California
Social Workers for Equity & Leadership
Southeast Asia Resource Action Center
Starting Over, Inc.
Team Justice
The Transformative In-prison Workgroup
Think Dignity
Time for Change Foundation
UC Berkeley's Underground Scholars Initiative
UDW/AFSCME Local 3930
Uncommon law
Unitarian Universalist Justice Ministry of California
United Food and Commercial Workers – Western States Council
Uprise Theatre
Voices for Progress Education Fund
W. Haywood Burns Institute
We the People - San Diego
White People 4 Black Lives
Women's Foundation California
Young Women's Freedom Center
Youth Hype
YWCA Berkeley/Oakland
8th Amendment Project

OPPOSITION: (Verified 8/24/22)

California District Attorneys Association

California State Sheriffs' Association
California Police Chiefs Association
Crime Victims United

ARGUMENTS IN SUPPORT: According to Smart Justice California, "With the Racial Justice Act, California took a profound step forward in addressing institutionalized and implicit racial bias in our criminal courts by empowering defendants to object to charges, convictions, or punishment if they can show that anyone involved in the case – a judge, attorney, officer, expert witness or juror – demonstrated bias during the process, or if they can show statistical evidence of demographic inequities in charges, convictions, or sentences for the same crime. However, this legislation was prospective; it excluded those who had been harmed prior to January 1, 2021 by the racial bias and discrimination that has long permeated our criminal legal system.

"If prohibiting racism in our courts and providing a person a means to remedy racial bias in their case is the right thing to do, it is the right thing to do for everyone. Those with prior, racially biased convictions and sentences deserve equal justice under the law and have waited. Providing a mechanism for retroactive relief will allow the state to realize significant court and correctional savings."

ARGUMENTS IN OPPOSITION: According to the California District Attorneys Association, "AB 256 would dramatically expand the scope of AB 2542 without seeing how any of these issues created by AB 2542 have been resolved.

". . . [T]he current law imposes heavy costs on local counties without any reimbursement. Setting aside the costs of appeals, delays and interruptions of trials, and the costs of evidentiary hearings that necessarily will involve untold witnesses and expert testimony on both sides, the costs of having to review thousands of files is astronomical. To illustrate: Let's say a defendant brings a simple motion challenging a prosecution on grounds defendant is allegedly charged with a "more serious" offense (i.e., assault with a deadly weapon or great bodily injury) than similarly situated defendants from different groups based on "similar" conduct. The number of files relevant to such a motion in Santa Clara County would be close to 1,500 files - each would have to be identified, located, reviewed, and redacted (to comply with state constitutional requirements and protect privileges) just to provide relevant discovery. Even if each file could be identified, located, reviewed, and redacted in an hour's total time, that would require a prosecutor working approximately 8 months (at a cost of over $100,000) to handle a single discovery request. And that assumes that the only files used for comparison are from a single year. AB 256 would, based on a relatively low

threshold showing, require pulling, reviewing, and redacting files potentially going back 100 years since the bill sets out no time frames or limits on the relevant comparison groups.

"These cost concerns prompted this Legislature to limit the scope of AB 2542 so that it did not apply retroactively. AB 256 overturns this critical limitation. Since every defendant belongs to at least two or more racial, ethnic, or national origin groups, practically every single conviction that has ever occurred in California can now be re-opened and potentially reversed. The defendant can mandate lengthy and costly evidentiary hearings involving the testimony of attorneys, law enforcement officers, jurors, experts, or other members of the criminal justice system without even having to show that a claimed violation of section 745 is more likely than not. Indeed, such hearings can be mandated based simply on defendant showing more than mere possibility that a violation has occurred.

"And the difficulties in trying to defend against the allegation and the ramifications of dismissal are compounded because relevant statistics are more likely to be absent, relevant witnesses (i.e., judges, attorneys, prosecutors, officers, etc.,) may be dead or unavailable. Retrying the cases after years or decades will often be impossible."

ASSEMBLY FLOOR: 45-21, 6/1/21
AYES: Bauer-Kahan, Bennett, Berman, Bloom, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Daly, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Nazarian, O'Donnell, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Kiley, Lackey, Mathis, Nguyen, Patterson, Petrie-Norris, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Aguiar-Curry, Arambula, Boerner Horvath, Cooley, Cooper, Frazier, Irwin, Mayes, Muratsuchi, Ramos, Rodriguez, Salas, Villapudua

Prepared by: Stella Choe / PUB. S. /
8/26/22 15:32:01

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

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THIRD READING

Bill No: AB 257
Author: Holden (D), Carrillo (D), Low (D) and Luz Rivas (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 3-2, 6/13/22
AYES: Cortese, Durazo, Laird
NOES: Ochoa Bogh, Newman

SENATE JUDICIARY COMMITTEE: 7-1, 6/28/22
AYES: Cortese, Durazo, Hertzberg, McGuire, Stern, Wieckowski, Wiener
NOES: Jones
NO VOTE RECORDED: Umberg, Borgeas, Caballero

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 41-21, 1/31/22 - See last page for vote

SUBJECT: Food facilities and employment

SOURCE: Fight for $15
SEIU California

DIGEST: This bill enacts the Fast Food Accountability and Standards Recovery Act to, among other things, establish the Fast Food Council within the Department of Industrial Relations, with a sunset date of January 1, 2029, for the purpose of establishing sectorwide minimum standards on wages, working hours, and other working conditions related to the health, safety, and welfare of, and supplying the necessary cost of proper living to, fast food restaurant workers.

Senate Floor Amendments of 8/25/22 1) revise the composition, duties and authority of the Fast Food Council; 2) strike the franchisor and franchisee joint and

several liability provisions of the bill; 3) limit the Fast Food Council's authority to set standards, as specified; 4) set a $22 cap on the wages the Council can promulgate, adjusted annually for CPI based on the state's minimum wage law, as specified; 5) increase the applicability to large fast food establishments of 100 or more; 6) add a January 1, 2029 sunset date on these provisions; and 7) specify annual wage adjustments for fast food restaurant employees after January 1, 2029 if the council is no longer operative.

ANALYSIS:

Existing law:

1) Provides that the California Occupational Safety and Health Act assures safe and healthful working conditions for all California workers by authorizing the enforcement of effective standards, assisting and encouraging employers to maintain safe and healthful working conditions, and by providing for research, information, education, training, and enforcement in the field of occupational safety and health. (Labor Code §6300)

2) Establishes the Division of Occupational Safety and Health (known as Cal/OSHA) within the Department of Industrial Relations (DIR) to, among other things, protect and improve the health and safety of workers by proposing, administering, and enforcing occupational safety and health standards, providing outreach, education, and assistance, and issuing permits, licenses and registrations. (Labor Code §140 et seq.; §6300 et seq.)

3) Establishes, also within DIR, the Division of Labor Standards and Enforcement (DLSE) under the direction of the Labor Commissioner (LC) and authorizes them, as specified, to investigate employee complaints and enforce labor laws. (Labor Code §79 et seq.)

4) Authorizes citations to be issued to employers when Cal/OSHA has evidence that an employee was exposed to a hazard in violation of any requirement enforceable by the division, including the exposing, creating and controlling employer. (Labor Code §6400)

This bill:

1) Defines "Fast food chain" to mean a set of restaurants consisting of 100 or more establishments nationally that share a common brand, or that are characterized by standardized options for decor, marketing, packaging, products, and services.

2) Defines "Fast food restaurant" to mean any establishment in the state that is part of a fast food chain and that, in its regular business operations, primarily provides food or beverages in the following manner:

   a) For immediate consumption either on or off the premises.
   b) To customers who order or select items and pay before eating.
   c) With items prepared in advance, including items that may be prepared in bulk and kept hot, or with items prepared or heated quickly.
   d) With limited or no table service, but table service does not include orders placed by a customer on an electronic device.

3) Defines fast food restaurant "franchisee" as a person to whom a fast food restaurant franchise is granted, and defines fast food restaurant "franchisor" as a person who grants or has granted a fast food restaurant franchise.

4) Defines "working conditions" to include, but are not limited to, wages, conditions affecting fast food restaurant employees' health and safety, security in the workplace, the right to take time off work for protected purposes, and the right to be free from discrimination and harassment in the workplace.

5) Exempts from the definition of fast food restaurant, specified bakeries and restaurants located and operating within a grocery establishment.

Establishment of the Fast Food Council

6) Prohibits the Council from promulgating, petitioning for, issuing, amending, or repealing, any standards, rules, or regulations until after the Director of Industrial Relations *receives a petition approving the creation of the council signed by at least 10,000 California fast food restaurant employees*. The bill specifies who is an eligible fast food restaurant employee for purposes of the petition, what information must be included and includes a presumption that the signatures on the petition are genuine.

7) Requires the Director of Industrial Relations, within 45 days of receipt of the petition, to verify whether the petition meets the requirements and if so, requires the Council to convene its first meeting within 90 days.

8) Provides that the Council shall be comprised of the following 10 members:

   a) One representative from the Department of Industrial Relations.
   b) Two representatives of fast food restaurant franchisors.
   c) Two representatives of fast food restaurant franchisees.

d) Two representatives of fast food restaurant employees.
e) Two representatives of advocates for fast food restaurant employees.
f) One representative from the Governor's Office of Business and Economic Development.

9) Specifies that the Governor shall appoint the state agency, fast food restaurant employees, fast food restaurant franchisees and fast food restaurant franchisor representatives and grants the Assembly and the Senate the right to each appoint one representative of an advocate for fast food restaurant employees. The appointment shall be at will of each appointing power and serve for a term of four years, shall receive $100 for each day of attendance at meetings of the Council and other official business of the council in addition to their actual necessary traveling expenses, as specified.

10) Requires the Governor to designate the chairperson of the council from the membership and the chairperson shall be responsible for convening the council.

11) Authorizes the Council to employ necessary assistants, officers, experts and other employees as it deems necessary, subject to appropriation, as specified.

Purpose and Authority of the Fast Food Council

12) Enacts the Fast Food Accountability and Standards (FAST) Recovery Act that establishes the Fast Food Council (Council), within DIR, to establish sectorwide minimum fast food restaurant employment standards on wages, working conditions and training that are necessary or appropriate to protect and ensure the welfare, well-being and security of fast food restaurant workers.

13) Prohibits the Council from promulgating regulations that do the following:

a) Create new paid time off benefits, such as paid sick leave or paid vacation, except that paid time off benefits do not include paid rest periods.

b) Address predictable scheduling, except that predictable scheduling does not include reporting time pay. Authorizes the Council to create a report containing a recommendation to the Legislature to enact laws regarding predictable scheduling.

14) Authorizes the Council to issue, amend, or repeal any rules and regulations as necessary to carry out its duties and specifies that where there is a conflict

between the standards, rules, or regulations issued by the council and those issued by another state agency, the Council's proposals shall prevail.

15) Authorizes the Council to provide direction to, and coordinate with, the Governor, executive agencies, and local agencies regarding the health, safety, and employment of fast food restaurant workers.

16) Requires that all standards, rules, and regulations adopted, amended, or repealed by the Council comply with the rule-making requirements of the Administrative Procedures Act.

17) Requires the Council to submit, to the appropriate committees on labor of each house of the Legislature, a report that contains a copy of that standard, repeal, or amendment and a statement of the council's reasons for adoption by January 15. *The standard, repeal, or amendment shall not take effect before October 15 of that same year, and specifies that nothing herein restrains the Legislature from enacting legislation that prevents a standard, repeal or amendment from taking effect.* However, specifies that these provisions do not apply to emergency standards.

18) Provides that any minimum wage established by the Council, from January 1, 2023 to December 31, 2023, inclusive, shall not be greater than twenty-two dollars ($22) per hour. Also provides that on January 1, 2024, and annually thereafter, the highest hourly minimum wage that may be established by the council shall increase by no more than the lesser of one of the following, rounded to the nearest ten cents:

    a) 3.5 percent.
    b) Adjusted to the U.S. Consumer Price Index, as specified.

19) Specifies that standards promulgated by the council shall be subject to any suspension of increases in the statewide minimum wage made pursuant to subdivision (d) of Section 1182.12.

20) Specifies that standards promulgated by the council shall not alter or amend the requirements in the California Retail Food Code (Part 7 (commencing with Section 113700) of Division 104 of the Health and Safety Code).

21) Authorizes the Legislature to request information from the Council to facilitate a review of the Council's performance and standards, as specified.

22) Provides that nothing in the bill shall be construed to give the Council the authority to create or amend statutes.

23) Provides that to the extent that any minimum standards are found by the Council to be reasonably necessary to protect restaurant worker health and safety and fall within the jurisdiction of the Occupational Safety and Health Standards Board, the Council is not authorized to promulgate standards, but rather shall petition the board with the proposed changes and requires the board to consider and respond to the petition, as specified.

24) Requires the Council to conduct a full review of the minimum fast food restaurant health, safety and employment standards every three years and requires it to hold meetings or hearings no less than every six months, as specified, providing the opportunity for the public to be heard on issues of fast food sector employment.

25) Authorizes a county or city with a population greater than 200,000 to establish a Local Fast Food Council, as specified, to periodically hold meetings that are open to the public allowing fast food restaurant employees the opportunity to be heard on issues of local fast food restaurant health, safety and employment conditions. Specifies that the Local Fast Food Council shall operate independently from the state Council.

26) Specifies that all meetings of a Local Fast Food Council shall be subject to the Ralph M. Brown Act.

27) Requires the Labor Commissioner, the Division of Occupational Safety and Health and the Civil Rights Department to ensure compliance with standards promulgated by the Council, as specified and per existing law. Also specifies that in any successful civil action to enforce, the court may grant injunctive relief in order to obtain compliance and shall award costs and reasonable attorney's fees.

28) Specifies that the standards set by the council shall not supersede a standard covered by a valid collective bargaining agreement that meets specified criteria including one that provides a regular hourly rate of pay not less than 30 percent more than the state minimum wage for those employees.

29) Specifies that nothing in the bill shall be construed to require local health departments to enforce standards issued by the council.

30) Authorizes the Council to issue any other rules, regulations, and guidance necessary for the enforcement of these provisions.

31) Includes a January 1, 2029 sunset date on the Fast Food Council provisions and species that on this date, the council shall cease operations.

Anti-Retaliation Protections

32) Prohibits a fast food restaurant operator from discharging or in any manner discriminating or retaliating against any employee for any of the following:

    a) Making a workplace safety or health complaint or disclosing information to the media, the Legislature, a watchdog or community based organization, or a governmental agency, as specified, on violations or noncompliance.
    b) Testifying or participating in a proceeding relating to employee or public health or safety, or any state or local Fast Food Council proceeding.
    c) Refusing to perform work the employee had reasonable cause to believe would violate employment, public health and safety laws or would pose a substantial risk to the health or safety of the employee(s) or the public.

33) Grants a cause of action to any worker discharged, discriminated or retaliated against for exercising their rights and creates a rebuttable presumption of unlawful discrimination or retaliation for any adverse action taken against the worker within 90 days of fast food restaurant operators having knowledge of the worker exercising their rights.

34) Specifies that on January 1, 2029, and annually thereafter, if the council is no longer operative, the minimum wage for fast food restaurant employees in effect on the immediately preceding December 31 shall be increased by the lesser of one of the following rounded to the nearest ten cents ($0.10):

    a) 3.5 percent.
    b) Adjusted to the U.S. Consumer Price Index, as specified.

Findings and Declarations

35) Finds and declares, among other things, that existing enforcement and regulatory mechanisms have proved inadequate in ensuring fast food restaurant worker health, safety, and welfare necessitating sector wide standards identified by an expert body of subject matter experts.

36) Declares that nothing in this act is intended to usurp or encroach on the Legislature's ability to establish standards governing the health, safety, welfare, and employment of workers, including fast food restaurant workers.

37) Declares the intent of the Legislature to ensure that legislators have sufficient time to review and, as appropriate, take legislative action with respect to fast food standards established by the Council before those can take effect.

Background

Workplace Health and Safety of Fast Food Workers: California employers have a legal obligation to provide and maintain a safe and healthful workplace for their employees as well as abide by minimum wage and labor standards required under the Labor Code. In spite of these protections, wage theft and labor law violations continue to be a problem many workers face. According to a DIR Labor Enforcement Task Force April 16, 2021[1] report to the Legislature, over the last couple of years, nine out of ten businesses inspected were found to be out of compliance by at least one LETF partner agency. In addition, LETF assessed over $8.3 million in wages due to workers.

[NOTE: Please see the Senate Labor, Public Employment and Retirement Committee analysis on this bill for more background information on the franchisor and franchisee business model and impacts of the joint liability proposed by this bill.]

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

According to the Senate Appropriations Committee:

- Staff estimates that this bill would result in special funds costs in the millions of dollars, likely reaching the tens of millions of dollars, on an annual basis across multiple units within the DIR.
- Additionally, this bill could result in cost pressures to the courts. Specifically, the bill would authorize a cause of action for any employee of a fast food restaurant who is discharged, discriminated or retaliated against for exercising rights established by the bill. Although courts are not funded on the basis of workload, increased pressure on the courts and staff may create a need for increased funding for courts to perform existing duties.

SUPPORT: (Verified 8/26/22)

Fight for $15 (co-source)
SEIU California (co-source)
ACCE Action

[1] Labor Enforcement Task Force Report to the Legislature, April 16, 2021. https://www.dir.ca.gov/letf/LETF-Legislative-Report-2021.pdf

ACLU California Action
Alameda Labor Council
Alliance of Californians for Community Empowerment Action
Alliance San Diego
American Federation of State, County and Municipal Employees
Amigos de Guadalupe Center for Justice and Empowerment
Asian Americans Advancing Justice - Asian Law Caucus
Asian Law Alliance
Asian Pacific American Labor Alliance Alameda
Asian Pacific American Labor Alliance Sacramento
Asian Pacific American Labor Alliance, San Francisco Chapter
Asian Pacific Environmental Network
Bend The Arc: Jewish Action, Bay Area Chapter
Bluegreen Alliance
California Alliance for Retired Americans
California Calls
California Coalition for Worker Power
California Conference Board of the Amalgamated Transit Union
California Conference of Machinists
California Employment Lawyers Association
California Environmental Voters
California Faculty Association
California Immigrant Policy Center
California Labor Federation, AFL-CIO
California Rural Legal Assistance Foundation
California School Employees Association
California Teachers Association
California Teamsters Public Affairs Council
California Working Families Party
Center for American Progress Action Fund
Center for Integrated Facility Engineering, Stanford University
Centro Legal de la Raza
City of Los Angeles
Clergy and Laity United for Economic Justice
Coalition for Humane Immigrant Rights
Consumer Attorneys of California
County of San Diego
County of Santa Clara
Courage California
Democratic Socialists of America, Long Beach

Democratic Socialists of America, Sacramento
Democratic Socialists of America, San Diego
Dolores Huerta Foundation
East Bay Alliance for a Sustainable Economy
East Valley Indivisibles
Elk Grove Education Association, CTA
Engineers and Scientists of California, IFPTE Local 20
Equal Rights Advocates
ERA Coalition
Food Empowerment Project
Friends Committee on Legislation of California
Gamaliel of California
Garment Worker Center
Gig Workers Rising
Housing Now! CA
Human Impact Partners
IBEW Local 1245
ILWU Northern California District Council
Indivisible CA: StateStrong
Indivisible YOLO
Jobs with Justice
Jobs with Justice, San Francisco
Koreatown Immigrant Workers Alliance
La Raza Centro Legal
Legal Aid at Work
Legal Aid of Marin
Lift Up Contra Costa Action
Los Angeles County Democratic Party
MAIZ San Jose
Media Alliance
Napa/Solano Central Labor Council
National Council of Jewish Women, California
National Domestic Workers Alliance
National Employment Law Project
National Women's Law Center
Natural Resources Defense Council
North Bay Jobs with Justice
North Bay Labor Council
One Fair Wage
Organize Sacramento

Partnership for Working Families
Pilipino Association of Workers & Immigrants
Policy Link
Restaurant Opportunities Centers of California, Bay Area and Los Angeles Chapters
Richmond Progressive Alliance
Sacramento Central Labor Council
San Francisco Board of Supervisors, City and County
San Francisco Rising
Santa Clara County Wage Theft Coalition
SEIU Local 2015
Silicon Valley Democratic Socialists of America
Silicon Valley Rising
Southern California Coalition for Occupational Safety & Health
Stanford Solidarity Network
Sunrise Bay Area
Sunrise Sacramento
Teachers Empowering Youth Activists
The Oakland Institute
The RowLA: The Church Without Walls
Together We Will - San Jose
Union de Vecinos
United Farm Workers
United Food and Commercial Workers, Western States Council
UNITE-HERE, AFL-CIO
Utility Workers Union of America, AFL-CIO
Voices for Progress Education Fund
Warehouse Worker Resource Center
Western Center on Law & Poverty
Women's March
Working Partnerships USA
Workplace Fairness
Worksafe
Yolo Democratic Socialists of America
Young Invincibles

OPPOSITION: (Verified 8/26/22)

7 Eleven
American Petroleum and Convenience Store Association
Anago Cleaning Systems

Beverly Hills Chamber of Commerce
Brea Chamber of Commerce
CalAsian Chamber of Commerce
California African American Chamber of Commerce
California Attractions and Parks Association
California Chamber of Commerce
California Hispanic Chamber of Commerce
California Hotel & Lodging Association
California Restaurant Association
California Retail Food Safety Coalition
California Retailers Association
Carlsbad Chamber of Commerce
Chino Valley Chamber of Commerce
Church's Chicken/Texas Chicken
Civil Justice Association of California
Commerce San Jose
El Dorado County Chamber of Commerce
El Dorado Hills Chamber of Commerce
Elk Grove Chamber of Commerce
Family Business Association of California
FISH Window Cleaning
Folsom Chamber of Commerce
Fresno Chamber of Commerce
Garden Grove Chamber of Commerce
Gilroy Chamber of Commerce
Greater Bakersfield Chamber of Commerce
Greater Conejo Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Greater Riverside Chamber of Commerce
HOA Brands
Hollywood Chamber of Commerce
InExpress
International Franchise Association
Laguna Nigel Chamber of Commerce
Lincoln Area Chamber of Commerce
Lodging Industry Association
Long Beach Area Chamber of Commerce
National Council of Chain Restaurants
National Federation of Independent Business
North Orange County Chamber

Oceanside Chamber of Commerce
Orange County Business Council
Oxnard Chamber of Commerce
Pacific Association of Building Service Contractors
Pleasanton Chamber of Commerce
Rancho Cordova Chamber of Commerce
Redondo Beach Chamber of Commerce
Rocklin Area Chamber of Commerce
Roseville Area Chamber of Commerce
Sacramento Metropolitan Chamber of Commerce
San Gabriel Valley Economic Partnership
San Jose Chamber of Commerce
San Pedro Chamber of Commerce
Santa Maria Valley Chamber
SAVE LOCAL JOBS Stop AB 257
Simi Valley Chamber of Commerce
South Bay Association of Chambers of Commerce
Southwestern California Legislative Council
Torrance Area Chamber of Commerce
Tulare Chamber of Commerce
U.S. Chamber of Commerce
United Chamber Advocacy Network
Valley Industry and Commerce Association
Yuba Sutter Chamber of Commerce
46-individuals

ARGUMENTS IN SUPPORT: According to the bill's sponsors, SEIU California and the Fight for $15 and a union, "Recent reports have exposed high rates of wage theft, violence, retaliation for organizing and health and safety violations at California fast food locations. The COVID-19 pandemic exacerbated many of these pre-existing problems. Over the last two years alone, fast food workers have gone on strike more than 2,300 times to call attention to these issues. At the same time, fast food franchisees – the small business owners who operate the vast majority of fast food locations in the state - struggle under a franchise system where global corporations set most of the terms and receive most of the profits while leaving franchisees solely liable for labor law compliance. Even well-meaning franchisees often find themselves squeezed to the point of cutting corners and skirting laws at the expense of worker pay and safety."

"AB 257 is landmark legislation that corrects this power imbalance by guaranteeing California fast food workers and fast food franchisees a seat at the

table to improve workplace standards and the ability to hold corporate franchisors accountable for providing safe and equitable working conditions."

ARGUMENTS IN OPPOSITION: According to a coalition in opposition of this bill, including the California Restaurant Association, International Franchise Association, and the California Chamber of Commerce, "While the purported purpose of the legislation of providing safe working standards is laudable and something we all support, its method for doing so equates to a dismantling of the franchise business model in California. Franchisee employees are the backbone of the business model and their rights, working conditions and overall protections are of the utmost importance to all involved. During a time when all small business owners, franchised and non-franchised, are doing everything possible to keep the lights on and the doors open during the COVID-19 pandemic, this legislation is ill-timed and would do more to hurt businesses and their employees then help them."

Other employers also argue that, "AB 257 singles out the restaurant industry for the creation of a sectoral council that will raise the cost to operate a counter service restaurant in California. The state maintains the strongest labor laws and highest minimum wage in the country, all of which the restaurant industry must follow. The counter service restaurant industry does not flout existing law and does not have disproportional violations compared to other industries that necessitate the creation of a sectoral council."

ASSEMBLY FLOOR: 41-21, 1/31/22
AYES: Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Mullin, Muratsuchi, Nazarian, O'Donnell, Reyes, Luz Rivas, Robert Rivas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Choi, Cooley, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Mayes, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Aguiar-Curry, Chen, Cooper, Gray, Grayson, Medina, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Rodriguez, Blanca Rubio, Salas, Villapudua

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
8/26/22 15:32:01

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

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THIRD READING

Bill No: AB 267
Author: Valladares (R), Fong (R) and Mathis (R), et al.
Amended: 6/30/22 in Senate
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 7-0, 6/1/22
AYES: Jones, Becker, Grove, Hertzberg, Hueso, Laird, McGuire
NO VOTE RECORDED: Limón, Allen

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 6-0, 6/29/22
AYES: Allen, Bates, Dahle, McGuire, Skinner, Wieckowski
NO VOTE RECORDED: Stern

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 62-2, 4/29/21 - See last page for vote

SUBJECT: California Environmental Quality Act: exemption: prescribed fire, thinning, and fuel reduction projects

SOURCE: Author

DIGEST: This bill extends the sunset from January 1, 2023, to January 1, 2026, for the exemption from the California Environmental Quality Act for prescribed fire, thinning, or fuel reduction projects undertaken on federal lands to reduce the risk of high-severity wildfire that have been reviewed under the National Environmental Policy Act, as specified.

ANALYSIS:

Existing federal law:

1) Establishes the National Environmental Policy Act (NEPA), which requires federal agencies to consider the significant environmental impacts of proposed actions, as specified. *42 U.S. Code §§4321 et seq.*

2) Establishes the Good Neighbor Authority, which authorizes the federal government to enter into good neighbor agreements with state, tribal, and county governments to carry out forest, rangeland, and watershed restoration services, including to reduce hazardous fuels and improve fish and wildlife habitat, among others. *16 U.S. Code §2113a.*

Existing state law:

1) Establishes the California Department of Forestry and Fire Protection (CalFire) in the California Natural Resources Agency (CNRA). CalFire is responsible for, among other things, fire protection and prevention.

2) Establishes the California Environmental Quality Act (CEQA), which requires a lead agency, as defined, to prepare an environmental impact report for a project, as defined, that may have a significant effect on the environment. *Public Resources Code (PRC) §§21000 et seq.*

3) Exempts, pursuant to SB 901 (Dodd, Chapter 626, Statutes of 2018), from CEQA[1] prescribed fire, thinning, or fuel reduction projects undertaken on federal lands to reduce the risk of high-severity wildfire that have been reviewed under NEPA if either of the following is satisfied:

   a) The primary role of a state or local agency is providing funding or staffing for those projects.

   b) A state or local agency is undertaking those projects pursuant to the federal Good Neighbor Authority or a stewardship agreement with the federal government, as specified.

4) Provides that authority for the federal lands CEQA exemption shall remain operative only if the CNRA Secretary certifies on or before January 1 of each year that NEPA or other federal laws that affect the management of federal forest lands in California have not been substantially amended on or after August 31, 2018.

5) Requires CalFire to annually report to the relevant policy committees of the Legislature the number of times the federal lands CEQA exemption was used.

6) Sunsets the federal lands CEQA exemption on January 1, 2023.

[1] Referred to in this analysis as the "federal lands CEQA exemption."

This bill:

1) Extends the sunset from January 1, 2023, to January 1, 2026, for the exemption from CEQA for prescribed fire, thinning, or fuel reduction projects undertaken on federal lands to reduce the risk of high-severity wildfire that have been reviewed under NEPA if both of the following apply:

   a) Significant impacts identified in the environmental impact statement for the project are avoided or mitigated.

   b) Either the primary role of a state or local agency is providing funding or staffing for those projects OR a state or local agency is undertaking those projects pursuant to the federal Good Neighbor Authority or a stewardship agreement with the federal government, as specified.

2) Requires the lead agency to file a notice of exemption with the Office of Planning and Research and with the relevant county clerk, as specified.

3) Requires:

   a) If the lead agency is not CalFire, the lead agency to file a notice with CalFire that includes specified information, including the location and type of project, acres to be treated, and anticipated long-term impacts, among others.

   b) If the lead agency is CalFire, CalFire must maintain the information specified in (a) for its projects.

4) Requires CalFire, on or before January 1, 2025, to submit a report to the Legislature with the information specified in 3)a) and b), above.

5) Provides that this bill does not require reimbursement for reasons specified.

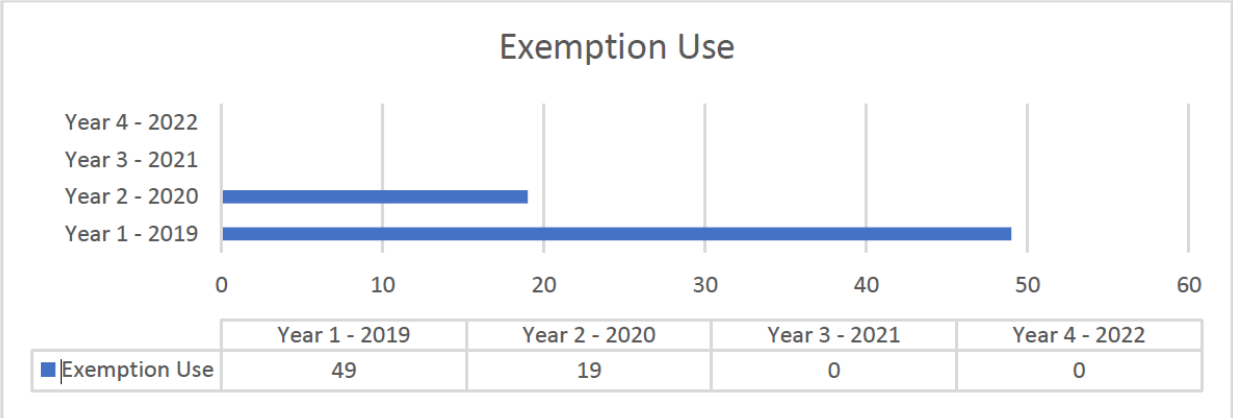
Background

In 2018, the Legislature passed SB 901 (Dodd, Chapter 626), which was the product of a conference committee to address wildfire issues. SB 901 sought to establish a comprehensive framework to address and prevent catastrophic wildfires, including prevention and planning by the state's electric utilities, management of the state's forests, chaparral, and other lands to prevent and defend against wildfires, and standards to stabilize electric utilities in the event of extensive liability resulting from claims under inverse condemnation. SB 901 created the federal lands CEQA exemption, with a January 1, 2023 sunset date.

Comments

How has the exemption been used thus far? Existing law only requires CalFire to report the number of times this CEQA exemption was used. It does not require any other agencies to report their use of the exemption. According to CalFire, it only reports its use of the exemption. According to the most recent report, issued by CalFire on October 28, 2021:

> For the 2019 calendar year, this streamlining option was utilized 49 times by CAL FIRE and expedited fuels reduction, pest management, prescribed fire, fuel break, and thinning and reforestation projects across the State. Twenty-nine counties benefited from projects that were exempted from CEQA, with 18 located in the northern region of the State, and 11 located in the southern region.
>
> For the 2020 calendar year, the exemption was utilized 19 times by CAL FIRE, which represents a 61% decrease from the implementation year. This decrease is very likely attributable to the response to the COVID-19 epidemic. Five national parks, spanning 17 counties, benefited from the utilization of this exemption, with 14 counties located in the northern region and three in the southern region. This data point should not be extrapolated into a trend as it only reflects a very narrow subset of fuel management projects conducted by the State, namely State-funded projects that intersect with federal land.



	Year 1 - 2019	Year 2 - 2020	Year 3 - 2021	Year 4 - 2022
Exemption Use	49	19	0	0

> It should be noted, as stated above, that these totals are only for CAL FIRE projects. Since other public entities are able to utilize the exemption and are not required to file a Notice of Exemption, CAL FIRE cannot accurately report on usage by other public entities.

The Sierra Nevada Conservancy (SNC) has also kept track of its use of the exemption and reported the following in May 2022:

In 2021, the Sierra Nevada Conservancy (SNC) used the SB 901 CEQA exemption to expedite investment of its Fiscal Year 20-21 early action funds. 12 of the 15 projects that the SNC funded with early action dollars used this exemption. These projects accounted for 90% of all the SNC's early action funds, or approximately $17 million dollars.

Because of the SB 901 CEQA exemption, the SNC was able to get funding for fuels reduction projects on the ground only three months after Governor Newsom signed the early action wildfire package. Without exemption, CEQA review for those projects would likely have taken at least four to six months and cost as much as $35,000 per project. With that delay, many projects might still be awaiting approval and would likely have missed the 2021 field season altogether.

"From 2020 to 2021, the SNC has used the SB 901 CEQA exemption to quickly invest $41.6 million across 32 projects, which will reduce the risk of severe wildfire across approximately 37,000 acres of forestland. At its June 2022 Board Meeting, SNC expects to use the exemption to invest an additional $13.8 million in 9 projects treating almost 7,000 acres. This will bring the grand total of SNC investments relying on the SB 901 CEQA exemption to $55.4 million dollars, 41 projects, and 44,000 acres.

A trailer bill complication. The Newsom Administration released trailer bill language on May 19, 2022, that would impact the same exemption. As it relates to this exemption, that language would:

- Make the exemption permanent.

- Expand the list of projects eligible for the CEQA exemption to include reforestation, habitat restoration, and associated ancillary activities.

- Expand the eligible lands for which this CEQA exemption would apply to any lands, not just federal lands, where NEPA has been completed for an eligible, proposed project. This would include projects on state, local, tribal, or private lands for which the federal government provides funding.

- Eliminate the requirement that CalFire report the use of the exemption to the Legislature and instead require lead agencies to file notices of exemption with the Governor's Office of Planning and Research and the relevant county clerk, as specified.

- Eliminate the requirement that the CNRA Secretary annually certify that NEPA and other relevant federal forest management laws have not been substantially changed in the last year and instead authorize the Secretary to report those changes to the Legislature.

- Create an additional CEQA exemption for tribal programs that are subject to the Tribal Natural Resources Council or tribal cultural burn and tribal wildfire funding.

Recent efforts to partner with the federal government. Improving forest and wildlands stewardship in California is complicated by the fact that the state itself only owns about 3% of the approximately 33 million acres of these lands in the state. The federal government owns 57% (the U.S. Forest Service manages over 20 million acres in 18 National Forests, and the National Park Service and the U.S. Bureau of Land Management manage an additional almost three million acres between them). Private landowners own the remaining 40%.

In recognition of this, the Newsom Administration signed a Memorandum of Understanding (MOU) with the U.S. Forest Service in 2020, to improve forest health. Further, in 2021, the Wildfire and Forest Resilience Task Force released *California's Wildfire and Forest Resilience Action Plan* to accelerate efforts to restore the health and resilience of the state's forests, grasslands and natural places. One goal of this plan seeks to increase treatment on federal lands through expanded use of the federal government's Good Neighbor Authority and shared stewardship agreements.

This bill seeks to make it easier to partner with the federal government to treat federal lands to reduce the risk of high-severity wildfire.

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

According to the Senate Appropriations Committee:

- Unknown but potentially significant costs over the next three years (General Fund, special fund) for CalFire, the Sierra Nevada Conservancy, and other state departments seeking to utilize the CEQA exemption in this bill to avoid or mitigate any significant project impacts identified pursuant to NEPA.

- Unknown costs (General Fund) for CalFire to prepare and submit the required report to the Legislature.

SUPPORT: (Verified 8/11/22)

Allweather Wood
Associated California Loggers
Association of California Water Agencies
Beaumont Chamber of Commerce
Big Bear Chamber of Commerce
Buildstrong Coalition
CalForests
California Cattlemen's Association
California Farm Bureau Federation
California Fire Chiefs Association
California Forest Watershed Alliance
California Forestry Association
California Professional Firefighters
Chino Valley Chamber of Commerce
City of Agoura Hills
City of Moorpark
City of Santa Clarita
City of Santa Monica
City of Simi Valley
Corona Chamber of Commerce
Edison International and Affiliates, including Southern California Edison
Environmental Defense Fund
Environmental Justice League
Fontana Chamber of Commerce
Greater Coachella Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Greater Ontario Business Council
Hemet San Jacinto Valley Chamber of Commerce
Highland Area Chamber of Commerce
Humboldt Redwood Company LLC
Inland Empire Chamber Legislative Alliance
Inland Empire Economic Partnership
LP Building Solutions
Mendocino Forest Products
Menifee Valley Chamber of Commerce
Moreno Valley Chamber of Commerce
Murrieta Wildomar Chamber of Commerce
Pacific Forest Trust
Perris Valley Chamber of Commerce

Pomona Chamber of Commerce
Rancho Cucamonga Chamber of Commerce
Redlands Chamber of Commerce
Rural County Representatives of California
Save the Redwoods League
Temecula Valley Chamber of Commerce
The Nature Conservancy
The Watershed Research and Training Center
Upland Chamber of Commerce
Western United Dairymen

OPPOSITION: (Verified 8/11/22)

None received

ARGUMENTS IN SUPPORT: According to the author, "California's wildfires continue to wreak havoc on communities throughout the state. AB 267 will allow California to continue streamlining wildfire prevention projects in federally managed forests. It is essential that the state continue carrying out prescribed fire, thinning, and fuel reduction projects that are on federal lands and have already been thoroughly reviewed under NEPA."

ASSEMBLY FLOOR: 62-2, 4/29/21
AYES: Aguiar-Curry, Arambula, Berman, Bigelow, Burke, Calderon, Cervantes, Chau, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Gallagher, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kiley, Lackey, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Kalra, Stone
NO VOTE RECORDED: Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Carrillo, Chiu, Friedman, Gabriel, Cristina Garcia, Lorena Gonzalez, Lee, Reyes, Luz Rivas, Ting

Prepared by: Catherine Baxter / N.R. & W. / (916) 651-4116
8/13/22 9:37:45

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

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THIRD READING

Bill No: AB 305
Author: Maienschein (D)
Amended: 8/25/22 in Senate
Vote: 21

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

SENATE MILITARY & VETERANS COMMITTEE: 6-0, 6/30/21
AYES: Archuleta, Grove, Eggman, Newman, Roth, Umberg
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 79-0, 6/1/21 - See last page for vote

SUBJECT: Veteran services: notice

SOURCE: Author

DIGEST: This bill requires specified governmental agencies to include, at their next scheduled update, additional questions on their intake and application forms to determine whether a person is affiliated with the Armed Forces of the United States.

Senate Floor Amendments of 8/25/22 (1) remove the Department of Motor Vehicles (DMV) and the Department of Fish and Wildlife from the required list of agencies who will need to update the specified forms in the bill, (2) allow state agencies to transmit specified information to the California Department of Veteran Affairs (CalVet) via paper or electronically, instead of just electronically, (3) require agencies to transmit information to CalVet annually, and (4) require after

updating their intake or application forms, each agency to transmit to CalVet the information received pursuant to this bill.

ANALYSIS:

Existing law:

1) Requires every state agency that requests on any written form or written publication, or through its Internet Web site, where a person is a veteran, to request that information only in the following format: "Have you ever served in the United States military?"

2) Establishes a number of state agencies, including the Department of Aging, State Department of Developmental services, Housing Finance Agency, California State University, Department of Community Services and Development, Department of Fish and Wildlife, Department of Motor Vehicles, Department of Rehabilitation, Employment Development Department, and the State Department of Health Care Services.

This bill:

1) Requires the California Community Colleges, Board of Governors of the California Community Colleges, Department of Aging, State Department of Developmental Services, Housing Finance Agency, California State University, Department of Community Services and Development, Department of Rehabilitation, and the State Department of Health Care Services, and requests that the University of California, at the next scheduled update of intake or application forms, include in those forms the following:

    a) An option for a person to indicate whether they are affiliated with the Armed Forces of the United States by asking both of the following in a manner that substantially conforms to the following format:

        i) "Have you ever served in the United States military?"
        ii) "Are you the spouse, legal partner, parent, or child of a person who is serving in or who has served in the United States military?"

    b) An option for a person who identifies as being military affiliated to give their consent to be contacted regarding eligibility to receive state or federal veterans benefits by including a specified statement.

c) A statement of potential eligibility to receive state and federal services, with contact information from the Department of Veterans Affairs (CalVet).

2) Requires each state agency to transmit to CalVet specified contact information if provided regarding each person who has identified that they, or their spouse, legal partner, parent, or child, served in the Armed Forces of the United States since the last data transfer and has consented to be contacted about military, veterans, family member, or survivor benefits.

3) Provides that after updating their intake or application forms each agency shall transmit to CalVet the information received at least annually.

4) Provides that information obtained by CalVet pursuant to this bill shall be used only to assist individuals in accessing benefits and shall not be disseminated except as needed for that purpose.

5) Provides that the Regents of the University California shall comply with the provisions of this bill only if the University of California Regents adopt a resolution consenting to the provisions of this bill.

6) Provides that this section does not apply to intake or application forms that are provided to a person after any intake or application forms that have included information required by the provisions of this bill.

7) Provides that for intake or application forms that are developed centrally, but require federal approval, agencies shall request federal approval for changes made pursuant to this bill.

Comments

Purpose of the bill. According to the author's office, "ensuring that our veteran population is provided with the information and resources they need to find the benefits that best suit them should be a priority in California. Closing the disconnect between service providers and service members is just one step we can take to ensure our veterans are treated with the respect they deserve."

Current law. Existing law does not require a state agency to inquire as to whether a person is a veteran, but requires every state agency that requests the information on a written form, or on its internet website, to only ask, "Have you ever served in

the United States military?" Prior to 2014, although there was no specific language required in statute, agencies generally asked, "Are you a veteran?" At the time, some veterans believed they were not veterans because they had never served in combat or because they were women.

This bill requires a specified list of 12 state agencies likely to provide services to or come in contact with veterans to include questions on their applications and intake forms, in a new prescribed format, as to whether a person and the person's immediate family members served in the U.S. military and, if yes, whether the person will grant consent to the agency to send relevant information to CalVet. The bill does not require an applicant to answer the questions, preserving the right of a veteran to not disclose their status.

Veterans in California. According to CalVet, California is home to 1.8 million veterans, representing eight percent of the total U.S. veteran population. CalVet anticipates that the state will receive an additional 30,000 discharged members of the armed services each year for the next several years, more than any other state. Historically, the largest demand for benefits and services for veterans occurs immediately after discharge and again as the veteran population ages and requires greater access to medical facilities and long-term care services. With the substantial number of veterans under the age of 30 leaving the military after deployments to the wars in Iraq and Afghanistan, coupled with a considerably large population of Vietnam veterans who are now approaching a period in the their lives where they will need greater access to medical and long-term care, California will surely be faced with a sustained spike in earned services and benefits.

Related/Prior Legislation

AB 1911 (Maienschein, 2020) would have required each state agency to electronically transmit to CalVet specified information regarding each applicant who has identified that they or a family member has served in the United States Armed Forces and has consented to be contacted about military, veterans, family member, or survivor benefits. (Never heard in the Assembly Veterans Affairs Committee)

AB 258 (Chavez, Chapter 227, Statutes of 2013) required every state agency that requests on any written form or written publication, or through its Internet Web site, whether a person is a veteran, to request that information is a specified manner.

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

According to the Senate Appropriations Committee,

1) CalVet anticipates minor and absorbable costs to intake additional information from the specified state agencies.

2) The Department of Health Care Services (DHCS) notes:

   a) One-time cost of $143,000 in Fiscal Year (FY) 2022-23 (Total Funds; $71,500 General Fund),
   b) Ongoing costs of $134,000 (Total Funds; $67,000 General Fund).
   c) Unknown, potentially significant costs to implement an electronic transmission capability in DHCS's current information technology systems—the California Healthcare Eligibility, Enrollment, and Retention System and the Statewide Automated Welfare System.
   d) Minor costs to update applications and forms.

3) DMV notes, one-time cost in the millions of dollars to automate over 50 forms to gather and electronically submit veteran data to CalVet (Motor Vehicle Account).

4) The California Department of Aging (CDA) notes:

   a) Minor and absorbable costs to collect additional data from participants, as current CDA data collection software and database contracts specify that local providers update systems without additional cost upon new state or federal data collection mandates.
   b) Potential unknown costs to electronically transmit data to CalVet, dependent on the required format of the data, frequency of submission, and associated staff time.

5) The Department of Fish and Wildlife notes costs of $1.61 million in the first year and $645,000 ongoing to update applications, update regulations, collect and digitize paper applications, and create a centralized data transfer system to transfer data to CalVet.

6) In addition, additional unknown, potentially significant state reimbursable mandated costs for community college districts to revise application forms and transmit data to CalVet. Actual costs would depend upon a determination by the

Commission on State Mandates, and the number and amount of individual claims that are deemed reimbursable.

7) The California Housing Finance Agency does not anticipate a fiscal impact.

8) Finally, potential unknown costs to other agencies listed in the bill to update forms, make changes to automated data collection and application information technology systems, and transmit information to CalVet.

SUPPORT: (Verified 8/25/22)

American Legion - Department of California
AMVETS - Department of California
California State Commanders Veterans Council
Military Officers Association of America – California Council of Chapters
Military Services in California
San Diego Military Advisory Council
U.S. Department of Defense
Vietnam Veterans of America – California Council of Chapters

OPPOSITION: (Verified 8/25/22)

None received

ARGUMENTS IN SUPPORT: According to supporters of the bill, "while the support network for military veterans is robust, many veterans remain unaware of the resources that the state and the federal government offers. For various reasons, a service member or veteran may not readily self-identify, either for fear of stigma or simply because they were unaware of the benefits. Service providers in various state agencies can have a profound impact on these veterans and their care by connecting them to existing resources and care through asking the simple question: 'have you or a family member ever served in the military?'"

ASSEMBLY FLOOR: 79-0, 6/1/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-

Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
8/26/22 15:32:02

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

SENATE RULES COMMITTEE
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THIRD READING

Bill No: AB 321
Author: Valladares (R), et al.
Amended: 8/22/22 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 6-0, 6/1/22
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, Pan
NO VOTE RECORDED: McGuire

SENATE HUMAN SERVICES COMMITTEE: 5-0, 6/20/22
AYES: Hurtado, Jones, Cortese, Kamlager, Pan

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 68-0, 1/27/22 - See last page for vote

SUBJECT: Childcare services: enrollment priority

SOURCE: Author

DIGEST: This bill adds children with a primary home language other than English to priority enrollment in state preschool and federal or state subsidized general child care programs.

Senate Floor Amendments of 8/22/22 (1) specify that the procedures the Superintendent of Public Instruction is to develop must enable programs to identify dual language learners before enrollment; and (2) make technical changes.

Senate Floor Amendments of 8/18/22 add double-jointing language to avoid chaptering issues with SB 1047 (Limón).

ANALYSIS:

Existing law:

1) Establishes the following priorities for enrollment in *part-day* state preschool programs:

   a) First priority is for three- or four-year-old neglected or abused children who are recipients of child protective services.

   b) Second priority, until June 30, 2024, is for eligible four-year-old children who are not enrolled in a state-funded transitional kindergarten program. Beginning July 1, 2024, to the extent that there are additional three- and four-year-old children with exceptional needs interested in enrolling beyond those already enrolled in the 10 percent of funded enrollment set aside, the second priority for services shall be given to all three- and four-year-old children with exceptional needs from families with incomes below the income eligibility threshold.

      i) Within this category, eligible children with the lowest income according to the income ranking on the most recent schedule of income ceiling eligibility table, as published by the Superintendent of Public Instruction (SPI) at the time of enrollment, shall be enrolled first.

      ii) If two or more families have the same income ranking according to the most recent schedule of income ceiling eligibility table, a child with exceptional needs shall be enrolled first.

      iii) If there are no families with a child with exceptional needs, the child that has been on the waiting list for the longest time shall be admitted first.

   c) Third priority is for eligible three-year-old children.

      i) Within this category, eligible children with the lowest income shall be enrolled first.

      ii) If two or more families have the same income ranking according to the most recent schedule of income ceiling eligibility table, a child with exceptional needs shall be enrolled first.

      iii) If there are no families with a child with exceptional needs, the child that has been on the waiting list for the longest time shall be admitted first.

d) Forth priority, after all otherwise eligible children have been enrolled, is for children from families whose income is no more than 15 percent above the eligibility income threshold. Within this priority category, priority shall be given to four-year-old children before three-year-old children.

e) The fifth priority after all otherwise eligible children have been enrolled, is for a child with exceptional needs whose family's income is above the income eligibility threshold. Within this priority category, priority shall be given to four-year-old children before three-year-old children.

f) Authorizes after all otherwise eligible children have been enrolled in the first through fifth priority categories, a California preschool program site operating within the attendance boundaries of a qualified free and reduced priced meals school to enroll any four-year-old children whose families reside within the attendance boundary of the qualified elementary school. These children shall, to the extent possible, be enrolled by lowest to highest income according to the most recent schedule of income ceiling eligibility table. (Education Code § 8210)

2) Establishes the following priorities for enrollment in *full-day* state preschool programs:

a) First priority is for three- or four-year-old neglected or abused children who are recipients of child protective services.

b) Second priority is for eligible four-year-old children who are not enrolled in a state-funded transitional kindergarten program.

i) Within this category, eligible children with the lowest income shall be enrolled first.

ii) If two or more families have the same income ranking according to the most recent schedule of income ceiling eligibility table, a child with exceptional needs shall be enrolled first.

iii) If there are no families with a child with exceptional needs, the child that has been on the waiting list for the longest time shall be admitted first.

c) Third priority is for eligible three-year-old children.

i) Within this category, eligible children with the lowest income shall be enrolled first.

ii) If two or more families have the same income ranking according to the most recent schedule of income ceiling eligibility table, a child with exceptional needs shall be enrolled first.

iii) If there are no families with a child with exceptional needs, the child that has been on the waiting list for the longest time shall be admitted first.

d) Authorizes, after all otherwise eligible children have been enrolled in the first through fourth priority categories, the contractor to enroll the children in the following order:

i) The contractor may enroll three- and four-year-old children from families that meet eligibility criteria. Within this priority, contractors shall enroll families in income ranking order, lowest to highest, and within income ranking order, enroll four-year-old children before three-year-old children.

ii) For California state preschool program sites operating within the attendance boundaries of a qualified free and reduced priced meals school, the contractor may enroll any four-year-old children whose families reside within the attendance boundary of the qualified school without establishing eligibility or a need for services. These families shall, to the extent possible, be enrolled in income ranking order, lowest to highest. (EC § 8211)

3) Establishes priority for federal and state subsidized child development services as follows:

a) First priority is for neglected or abused children who are recipients of child protective services, or children who are at risk of being neglected or abused, upon written referral from a legal, medical, or social services agency.

b) Second priority is to be given equally to eligible families, regardless of the number of parents in the home, who are income eligible.

i) Within this priority, families with the lowest gross monthly income in relation to family size shall be admitted first.

ii) If two or more families are in the same priority in relation to income, the family that has a child with exceptional needs shall be admitted first.

iii) If there is no family of the same priority with a child with exceptional needs, the same priority family that has been on the waiting list for the longest time shall be admitted first. (WIC § 10271)

This bill adds children with a primary home language other than English to priority enrollment in state preschool and federal or state subsidized general child care programs. Specifically, this bill:

Part- and full-day state preschool programs

1) Adds children from a family in which the primary home language is other than English within priority enrollment, after the existing priority for children who are abused or neglected, low-income four-year olds, and children with exceptional needs (and before children who have been on the waiting list).

Child care and development programs

2) Adds children from a family in which the primary home language is other than English within priority enrollment, after the existing priority for children who are abused or neglected, low-income children, and children with exceptional needs (and before children who have been on the waiting list).

Other

3) Specifies that the existing requirement for the SPI to develop procedures for state preschool programs to distribute and collect a completed family language instrument is to identify dual language learners *before* enrollment.

4) States legislative findings and declarations relative to prioritizing access to state preschool and childcare and developmental services for children who reside in homes in which the primary language is a language other than English.

5) Includes double-jointing language to avoid chaptering issues with SB 1047 (Limón).

Comments

Need for the bill. According to the author, "Over half of California's children under the age of six speak a language other than or in addition to English at home. These children, who are commonly referred to as dual-language learners (DLLs), will be designated as English learners' (ELs) if they enter kindergarten or later grades without being fully proficient in English.

"Due to the COVID-19 pandemic related school shutdowns, DLLs and ELs have suffered academically, more so than every other category of student, with the exception of homeless youth. The LA Unified School district reported that the percentage of ELs failing their classes had increased 10%. Sacramento Unified School District reported that of the students that stopped reporting to classes, over 44% were ELs.

"Fortunately, students who transition out of the EL designation by achieving English proficiency are significantly more likely to succeed in the classroom than ELs in general. A Public Policy Institute of California report found that throughout grades 2-11, former ELs who became proficient in English scored significantly higher on statewide tests than ELs did in general, and even higher than native English speakers did in some grade levels. A recent University of Chicago study confirms that ELs who achieved English proficiency by eighth grade actually performed as well and in some cases better on tests than their native English-speaking peers do. The sooner ELs learn English, the more likely they are to perform well in school."

Academic outcomes. Several national and California-based studies have found that English-learners lag behind their native English-speaking peers academically, and those that do not achieve English-proficiency early fare the worst academically. According to these reports, DLLs who begin gaining proficiency in English before kindergarten are better prepared for entering K-12 education. https://www.ppic.org/publication/californias-english-learner-students/#:~:text=Introduction,as%20EL%20is%20greater%20still; https://www2.ed.gov/datastory/el-outcomes/index.html#introText

What do we know about young children who are dual language learners? The California Department of Education (CDE) collects and publishes K-12 student demographic information that includes the identification of students who are English learners. Recently enacted legislation, AB 1363 (L. Rivas, Chapter 498, Statutes of 2021), requires the SPI to develop procedures for providers to identify and report data on DLLs enrolled in the state preschool program.

The Health Policy Brief "Families with Young Children in California: Findings from the California Health Interview Survey, 2011-2014, by Geography and Home Language" (May 2017) issued by the University of California at Los Angeles' Center for Health Policy Research, uses data from the California Health Interview Survey for the years 2011-2014, to present findings on families with children ages birth to five years. Findings include that about 40 percent of households spoke English and another language, and 20.3 percent did not speak English in the home.

Children in these two groups are considered dual language learners, accounting for almost 60 percent of the children in California age birth to five years. https://healthpolicy.ucla.edu/publications/Documents/PDF/2017/Child_PB_FINAL_5-31-17.pdf

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

According to the Senate Appropriations Committee, the CDE estimates General Fund costs of $188,000 in the first year and $186,000 (GF) in the second year for 1.0 position to write regulations and provide guidance to the field. The workload activities include responding to questions from the field, developing and conducting ongoing trainings and providing technical assistance. These costs also include related travel expenses. The CDE indicates that the cost for updating the Child Development Management Information System will be minimal.

The CDE also indicates that there is no data available to indicate how the new priority would impact the overall levels of reimbursement because these children are already eligible for services. Additionally, this bill's new subcategory of income eligibility would not increase the number of children that will be eligible to receive services because these children are already income eligible.

SUPPORT: (Verified 8/22/22)

California Catholic Conference
California School Employees Association

OPPOSITION: (Verified 8/22/22)

None received

ASSEMBLY FLOOR: 68-0, 1/27/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Cervantes, Choi, Cooley, Cooper, Cunningham, Daly, Davies, Flora, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Ward, Akilah Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Mia Bonta, Carrillo, Chen, Megan Dahle, Eduardo Garcia, Kalra, Mayes, Waldron

Prepared by: Lynn Lorber / ED. / (916) 651-4105
8/23/22 13:23:15

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 351
Author: Cristina Garcia (D) and Robert Rivas (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

PRIOR VOTES NOT RELEVANT

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 10-0, 6/13/22
AYES: Roth, Melendez, Becker, Eggman, Hurtado, Jones, Leyva, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Archuleta, Bates, Dodd, Min

SENATE HEALTH COMMITTEE: 9-0, 6/22/22
AYES: Pan, Melendez, Eggman, Gonzalez, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Grove, Hurtado

SENATE APPROPRIATIONS COMMITTEE: 6-0, 8/11/22
AYES: Portantino, Bradford, Jones, Laird, McGuire, Wieckowski
NO VOTE RECORDED: Bates

SUBJECT: Reduction of human remains and the disposition of reduced human remains

SOURCE: Author

DIGEST: This bill establishes a new regulatory process for a Licensed Reductions Facility (LRF) under the jurisdiction of the Cemetery and Funeral Bureau (Bureau) for the disposition of human remains, requires training for LRF employees, defines "reduced human remains", imposes the same requirements for reduced human remains as cremated and hydrolyzed remains, and requires the Bureau and the Department of Public Health (DPH) to implement specified regulations by January 1, 2027.

Senate Floor Amendments of 8/25/22 delay implementation of this bill until January 1, 2027.

ANALYSIS:

Existing law:

1) Establishes the Bureau within the Department of Consumer of Affairs (DCA) 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) Authorizes the Bureau to inspect the premises in which the business of a funeral establishment, cemetery, or crematory is conducted, where embalming is practiced or, where human remains are stored. (BPC § 7607)

This bill:

1) Authorizes a corporation, partnership, or natural person to operate, establish, or maintain an LRF with a valid license issued by the Bureau.

2) Requires an application for an LRF to be made on a form approved by the Bureau, as specified, and requires any change in ownership of an LRF to be reported to the Bureau, and a transfer in a single transaction or related transactions of more than 50% of the equitable interest in an LRF constitutes a change of ownership. Requires when a change in ownership in an LRF occurs, the existing reduction facility license lapses and the new owner must obtain a new license from the Bureau, as specified.

3) Requires the DPH to adopt, amend as necessary, the rules and regulations prescribing the standards for LRFs to preserve the public health and safety and to ensure the destruction of pathogenic micro-organisms, and permits an LRF to apply to the DPH for approval of a reduction chamber.

4) Requires an LRF to ensure or conduct annual maintenance of all reduction chambers in use by the facility, and prohibits the Bureau from renewing an LRF without proof of annual maintenance, as specified. Prohibits an LRF from conducting the reduction of human remains unless specified conditions are met.

5) Makes it a misdemeanor for a person, firm, or corporation to reduce human remains, or to dispose of reduced human remains, without a valid unexpired reduction facility license, as specified.

6) Subjects an LRF to discipline from the Bureau.

7) Makes various definitions related to an LRF and reducing human remains.

8) Prohibits certain actions related to reducing human remains. Requires an LRF to maintain on its premises or other business location within the state records of the maintenance performed on the reduction chamber. Requires an LRF to maintain an identification system allowing identification of each decedent beginning from the time the reduction facility accepts delivery of human remains until the point at which it releases the reduced human remains to a third party, and after the reduction an identifying disk, tab, or other permanent label, is to be placed with the reduced human remains container or containers before the reduced human remains are released from the LRF.

9) Requires an LRF, or its authorized representatives to provide instruction to all facility personnel involved in the reduction process, which must lead to a demonstrated knowledge on the part of an employee regarding identification procedures used during reduction, operation of the reduction chamber and related equipment, and all laws relevant to the handling of a body and reduced human remains. The instruction must be outlined in a written plan maintained by the licensee for inspection and comment by the Bureau. Prohibits an employee from operating a reduction chamber or related equipment until the employee has demonstrated to the certified manager of the LRF or authorized representative that the employee understands the procedures required to ensure that health and safety conditions are maintained and that reduced human remains are not comingled, as specified.

10) Imposes the same requirements for reduced human remains as cremated human remains or hydrolyzed remains, for registered cremated remains disposers, funeral directors, and funeral establishments as specified.

11) Imposes similar penalty violations for removal or reduced remains, as specified, and imposes the same requirements for the integration of reduced remains into the soil as the scattering of cremated or hydrolyzed remains, as specified. Incorporates the reduction of human remains into the requirements

for the certificate of death, as specified

12) Adds reduced human remains to the requirements for a permit for disposition of remains, as specified, and requires a cremated remains disposer to document and retain all permits and private authorizations required for all reduced remains that were integrated into soil outside of a cemetery.

13) Delays the implementation of this bill until January 1, 2027, and makes other technical and clarifying changes.

Background

Regulatory Function of the Bureau. The Bureau regulates more than 13,000 licensees in 13 different licensing categories. The Bureau has the oversight responsibility for both fiduciary and operational activities of its licensing population and has the statutory authority to enforce the licensing and practice acts in the BPC along with jurisdiction over specified provisions of the HSC dealing specifically with human remains, cemetery, and crematory provisions. This bill aims to model the licensure and regulation of reduction facilities based on the newly authorized provisions established for hydrolysis facilities.

Reduction of Human Remains. The reduction of human remains is different from a "green burial" as the human remains are reduced in a reduction chamber and not placed directly into the ground. The reduction of human remains is also known as natural organic reduction. This bill would allow the *soil*, or the *reduced remains* to be returned to the environment. As currently drafted, only a licensed cremated remains disposer would be authorized to disperse those reduced human remains consistent with what is required for cremated remains and hydrolyzed remains. Additionally, this bill requires a reduction facility licensee to have a contractual relationship with a licensed cemetery authority for disposition of reduced remains that are not called for or accepted.

Types of Burial and Regulatory Efforts. AB 967 (Gloria, Chapter 846, Statutes of 2017) now requires the Bureau to license and regulate hydrolysis facilities and managers beginning July 1, 2020. Licensed hydrolysis facilities are required to use a hydrolysis chamber approved by DPH to hydrolyze human remains as an alternative method of disposition of human remains. Consistent with the requirements for a hydrolysis facility as provided in AB 967, and the approval of hydrolysis facility equipment, this bill authorizes the DPH to approve the reduction chamber prior to its use, and the provisions of this bill authorize DPH to adopt and

amend the rules prescribing the standards for reduction chambers to preserve public health. As currently drafted, this bill authorizes a reduction chamber manufacturer to apply to the DPH for approval.

Licensure and regulation of reduction facilities. This bill creates a licensure program for reduction facilities, which is similar to the licensure process for crematory licenses and hydrolysis facility licenses. The provisions of this bill layout the requirements necessary to apply for such a reduction facility license, including submitting a written application to the Bureau, payment of the applicable fees, demonstration of compliance with all applicable laws, and obtain any relevant local permits, along with a DPH-approved reduction chamber.

Fee and revenue structure. This bill authorizes the Bureau to set a licensing fee, at an amount that would not exceed the reasonable cost of administering the bill's provisions. This bill also requires the Bureau to assess a similar regulatory charge, not to exceed $8.50, for each reduction made by a licensed reduction facility.

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

According to the Senate Appropriations Committee, DPH estimates total General Fund costs of $1,095,000 over the first three years of the program and $193,000 ongoing. The Bureau anticipates costs of approximately $6,000 for staff time associated with reviewing and processing applications and ongoing annual revenue increases of approximately $4,500 for initial application and license renewal fees, which may offset its administrative costs to some extent. The Office of Information Services within the DCA estimates a total one-time IT impact of $140,000 to create a new platform, which may be absorbed through the re/direction of existing maintenance resources.

SUPPORT: (Verified 8/25/22)

Californians Against Waste
Better Place Forests
Recompose
265 Individuals

OPPOSITION: (Verified 8/25/22)

California Catholic Conference

ARGUMENTS IN SUPPORT: Supporters note that this bill expands end of life burial options and provides an environmental friendly and sustainable alternative.

ARGUMENTS IN OPPOSITION: The California Catholic Conference writes in opposition and notes, "The NOR process also remains unproven for human remains. Proponents rely on one study, which has not been peer-reviewed, to contend that all toxic elements of the body (e.g., dental implants) and pathogens are properly eliminated before spreading the remains."

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

Prepared by: Elissa Silva / B., P. & E.D. /916-651-4104
8/26/22 15:32:03

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

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THIRD READING

Bill No: AB 498
Author: Quirk-Silva (D), et al.
Amended: 8/22/22 in Senate
Vote: 21

PRIOR VOTES NOT RELEVANT

SENATE HEALTH COMMITTEE: 9-0, 6/22/22
AYES: Pan, Melendez, Eggman, Gonzalez, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Grove, Hurtado

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/29/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Medi-Cal: county organized health system: Orange County Health Authority

SOURCE: Author

DIGEST: This bill removes the sunset on existing law regarding the Orange County Health Authority (CalOptima) board. This bill requires CalOptima board members to ensure the provision of cost-effective behavioral health care services and requires the members to address the needs of Medi-Cal members who are affected by homelessness and housing instability, and fully commit to implementation of the California Advancing and Innovating Medi-Cal (CalAIM) Act principles. This bill requires CalOptima board members with a financial interest in a board decision to recuse themselves as specified. This bill limits specified members from future board terms, representation of other individuals and entities before the board, or employment at CalOptima or entity receiving CalOptima Medi-Cal funds, except for the position they held when appointed to the CalOptima board. This bill contains an urgency clause that will make this bill effective upon enactment.

*Senate Floor Amendment*s of 8/22/22 provide an exception for routine administrative reimbursement expenses to the prohibition of board members receiving compensation from the Orange County Health Authority for one year after leaving office.

ANALYSIS:

Existing law:

1) Establishes the Medi-Cal program, administered by the Department of Health Care Services (DHCS), under which health care services are provided to qualified, low-income persons. [WIC § 14000, et seq.]

2) Authorizes a county board of supervisors, by ordinance, to establish a commission to negotiate an exclusive contract with DHCS to provide, or arrange for the provision of, health care services under the Medi-Cal program. This system of services provided by or through a county under these provisions is known as a county organized health system (COHS). Requires the enabling ordinance to, among other things, specify the membership of the county commission, the qualifications for individual members, the manner of appointment, and how long they will serve. [WIC §14087.54]

3) Requires governance of CalOptima (the Orange County COHS) to be vested in a governing body (board) consisting of ten members, of whom nine are voting members and one is a nonvoting member. Requires the nonvoting member to be the Director of the Orange County Health Care Agency. Requires the nine voting members to be nominated by the Orange County Health Care Agency and to be appointed by a majority vote of the Orange County Board of Supervisors and specifies the membership categories of board members. [WIC §14087.59]

4) Requires each member of the CalOptima board to reside in, or be employed in, Orange County and to be generally representative of the diverse backgrounds, interests, and demography of persons residing in Orange County and have a commitment to a health care system that improves access to high-quality health care for persons served by the commission, delivers high-quality care, and is financially viable. Requires each member to possess the requisite skills and knowledge necessary to design and operate a quality publicly assisted health care delivery system. [WIC §14087.59]

5) Requires members of the CalOptima board to serve four-year terms, except for those members who are members of the Orange County Board of Supervisors,

who serve a one-year term. Requires a non-Orange County supervisor member of the CalOptima board to serve no more than two consecutive terms. [WIC §14087.59]

6) Permits a member of the CalOptima board to be removed by a vote of at least two-thirds of the Orange County Board of Supervisors. Permits the CalOptima board, subject to a two-thirds vote of the full membership, to increase the number of public members, or the number of members who are current CalOptima members or family members, subject to an affirmative vote by a majority of the Orange County Board of Supervisors. [WIC §14087.59]

7) Requires each member of the CalOptima board to have the responsibility and duty to follow the requirements of applicable federal and state laws and regulations, to serve the public interest of the members of CalOptima, and to ensure the operational well-being and fiscal solvency of CalOptima. Requires members of the CalOptima board to further strive to improve health care quality, promote prevention and wellness, ensure the provision of cost-effective health and mental health care services, and reduce health disparities. [WIC §14087.59]

8) Requires CalOptima to work to earn the public's trust through its commitment to accountability, responsiveness, transparency, reliability, and cooperation. [WIC §14087.59]

9) Sunsets on January 1, 2023. [WIC §14087.59]

This bill:

1) Deletes the January 1, 2023 sunset on the law that requires governance of CalOptima to be vested in a board consisting of nine voting members and one nonvoting member and specifies the membership categories of the CalOptima board, specifies the duties of board members, and their terms.

2) Requires the Orange County Board of Supervisors to consult with stakeholders in Orange County, including, but not limited to, providers who serve CalOptima members, consumers, and advocates for purposes of identifying qualified individuals to be considered as members of the governing body,

3) Prohibits a member of the CalOptima board who is a member of the Orange County Board of Supervisors from being appointed to serve a four-year term under any of the other categories within 12 months of the expiration of their one-year term.

4) Requires members of the CalOptima board to strive to reduce health disparities, address the needs of Medi-Cal members who are affected by homelessness and housing instability, improve quality outcomes, and manage the risk and needs of Medi-Cal beneficiaries through whole-person care approaches and addressing social determinants of health.

5) Specifies that existing Government Code and Medi-Cal law regarding conflict of interest apply to the CalOptima board. Requires CalOptima board members who have a financial interest in a decision before the board, upon identifying the conflict of interest and immediately prior to the consideration of the matter to do the following:

   a) Publicly identify the financial interest that gives rise to the conflict or potential conflict of interest in sufficient detail that it can be understood by the public, except residential street addresses are not required to be disclosed;

   b) Recuse themselves from discussing and voting on the matter, but permits the member to speak on the issue during the time the general public speaks on the issue; and,

   c) Leave the room until after the discussion, vote, and any other disposition of the matter is concluded unless the matter is on the portion of the agenda reserved for uncontested matters.

6) Prohibits a CalOptima board member from acting as an agent or otherwise representing for compensation, any other person, by making any formal or informal appearance before, or by making any oral or written communication to, the commission, or any committee, subcommittee, or present member of the commission, or any officer or employee of the commission, if the appearance or communication is made to influence administrative action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, contract, or the sale or purchase of goods or property, for a period of one year after leaving office.

7) Prohibits a CalOptima board member from serving as an employee, agent, or attorney, or otherwise representing for compensation CalOptima or any other entity who received an expenditure of Medi-Cal funds from CalOptima during the prior five years for a period of one year after leaving office. Provides an exception for the role the board member held when appointed to the board. Also provides an exception for routine administrative expenses for reimbursement

for travel, continuing education costs, routine office expenses, and other ongoing routine administrative expenses.

8) Exempts CalOptima board members in the following specified membership categories from the prohibitions in 5) and 6): the representative of a community clinic, the practicing licensed medical provider, and the practicing licensed physician.

9) Makes a legislative finding that a special statute is necessary because of the unique circumstances applicable to the County of Orange with respect to the operation and governance of CalOptima.

Comments

1) *Author's statement.* According to the author, CalOptima, created in 1993, is the single largest health insurer in Orange County, providing coverage for one in four residents. CalOptima manages programs that are funded by the state and federal government, but operates independently, under the leadership of a Board of Directors made up of members, providers, business leaders and local government representatives. For over a decade, there have been a number of concerns raised publically related to CalOptima. Some of the most notable include high turnover of senior executives, conflict of interest of board members, allegations of misconduct and inappropriate actions, mistrust from member and partner organizations providing services to CalOptima patients, delays in care for CalOptima's homeless patients, and lack of budgetary transparency. SB 4 (Mendoza, Chapter 479, Statutes of 2017) passed overwhelmingly, to prevent any Orange County Supervisor from amending the local COHS ordinance to eliminate provider representation from the CalOptima board. However, the statute is set to sunset. This bill will not only extend SB 4 permanently, but enacts key guardrails to protect against the further politicizing of CalOptima. Transparency, for the community, partner organizations, and more importantly, for the patients they have been established to serve is vital and needed.

2) *CalOptima*. CalOptima is the COHS in Orange County. There are six COHS in California operating in 22 counties, and serving approximately 2.5 million Medi-Cal beneficiaries. Almost all Medi-Cal-eligible beneficiaries in COHS counties, including those enrolled in both Medi-Cal and Medicare (referred to as "dual-eligibles") and individuals with a share of cost, are mandatorily enrolled into the COHS plan. CalOptima was created in 1993 by a county ordinance and began operations in 1995. As of January 2022, it has 879,635 members with an operating budget of $3.7 billion. CalOptima is Orange

County's largest health insurer, providing coverage through four major programs:

a) Medi-Cal;

b) OneCare, which is Special Needs Plan (a Medicare Advantage Special Needs Plan) for low-income seniors and people with disabilities who qualify for both Medicare and Medi-Cal;

c) PACE (Program of All-Inclusive Care for the Elderly) for older adults, providing comprehensive health services through the CalOptima PACE center; and,

d) OneCare Connect Cal MediConnect Plan (Medicare-Medicaid Plan) for people who qualify for both Medicare and Medi-Cal, combining Medicare and Medi-Cal benefits, adding supplemental benefits for vision, transportation and dental services, and providing comprehensive care coordination.

According to a February 2022 article by the Orange County Register, CalOptima has had substantial turnover in key positions over the past two years while salary levels for newly created or replacement positions have jumped significantly. The Voice of OC has also published stories on troubling hiring practices suggesting nepotism and failing to follow tradition in appointing board members with local experience to the hospital seat against the recommendations of the local hospital association.

Related/Prior Legislation

SB 4 (Mendoza, Chapter 479, Statutes of 2017) required governance of CalOptima to be vested in a governing body consisting of nine voting members and one nonvoting member. Specified the membership categories of the CalOptima board, specified the duties of board members, and their terms. Sunset these provisions January 1, 2023.

SB 1308 (Nguyen, 2016) would have prohibited a COHS from utilizing any funds intended for administrative and operational expenses for staff retreats, promotional giveaways, excessive executive compensation, or promotion of federal or state legislative or regulatory modifications. Also restricted how COHS may feature elected officials or candidates in media campaigns. *SB 1308 was not heard in the Senate Health Committee.*

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

SUPPORT: (Verified 8/22/22)

American Academy of Pediatrics, Orange County Chapter
California Chamber of Commerce
Children's Health of Orange County
Children's Hospital of Orange County
KPC Health Global Medical Centers
Orange County Hispanic Chamber of Commerce
Orange County Medical Association
Orange County Taxpayers Association
Prime Healthcare
Providence
Tenet Healthcare
UCI Health

OPPOSITION: (Verified 8/22/22)

None received

ARGUMENTS IN SUPPORT: A group of health care providers writes that this bill ensures the long-term stability of CalOptima. Orange County has no county hospital and provides no direct primary or specialty care services. As a result, CalOptima was founded as a public-private partnership nearly thirty years ago to better organize the de facto private safety net serving Orange County's poorer residents. First, this bill makes permanent the existing statute that sets forth the composition of the Board of Directors of CalOptima that was established under previous legislation that codified the County ordinance. The existing statute sunsets and the extension under this bill secures the continued balance and expertise of those individuals selected to serve on CalOptima's board. In addition, the statute sets forth the duties and responsibilities of the CalOptima board to serve the public interest of the CalOptima members and to ensure its operational independence and fiscal solvency. This bill also modernizes and ensures that existing conflict of interest and disclosure requirements that apply to local governments also apply to the CalOptima board. These safeguards ensure that all individuals on the CalOptima board involved in allocating billions of dollars in state and federal funds adhere to existing conflict of interest and related provisions of state law, while also requiring that they adhere to "cooling off" periods prior to being employed by CalOptima or by entities that have received funding from CalOptima. These safeguards are similar to those already imposed on elected and appointed state officials. This bill injects a strong and necessary set of good

government principles and modernize the statute to reflect the long-term commitment of the Medi-Cal program to transform and strengthen Medi-Cal.

ASSEMBLY FLOOR: 78-0, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

Prepared by: Jen Flory / HEALTH / (916) 651-4111
8/23/22 14:48:18

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

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THIRD READING

Bill No: AB 499
Author: Blanca Rubio (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 5-0, 6/22/21
AYES: Hurtado, Jones, Cortese, Kamlager, Pan

SENATE JUDICIARY COMMITTEE: 10-1, 7/13/21
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Skinner, Stern
NOES: Wieckowski

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/16/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

ASSEMBLY FLOOR: 78-0, 5/27/21 - See last page for vote

SUBJECT: Referral source for residential care facilities for the elderly: duties

SOURCE: A Place for Mom
Caring.com
Act Eight, LLC

DIGEST: This bill recasts provisions of existing law that apply to a placement agency for residential care facilities for the elderly (RCFEs) to instead apply to a newly defined "referral source." Among other things, this bill requires referral sources to provide the senior or their representative with specified disclosures, perform background checks, and carry liability insurance. This bill also provides for criminal and civil penalties.

Senate Floor Amendments of 8/25/22 clarify that case management services provided through Medi-Cal do not qualify as compensated referral; specify a compensated referral source's responsibilities related to referring a person to a licensed residential care facility for the elderly (RCFE); remove requirements that

a compensated referral source respond to a specified oral or written request and instead require a compensated referral source to respond to an oral request on a specified recorded line or an electronic or written request; remove the requirement that a compensated referral source obtain affirmative consent for disclosing a person's personal information for purposes other than those necessary to make an authorized referral, as specified; and make other technical changes.

ANALYSIS:

Existing law:

1) Establishes the California RCFE Act, which requires facilities that provide personal care and supervision, protective supervision or health related services for persons 60 years of age or older who voluntarily choose to reside in that facility to be licensed by the California Department of Social Services (CDSS). *(HSC 1569 et seq*.)

2) Defines a "residential care facility for the elderly" as a housing arrangement chosen voluntarily by persons 60 years of age or older, or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, or personal care are provided, based upon the resident's varying needs, as determined in order to be admitted and to remain in the facility. *(HSC 1569.2(o))*

3) Defines a "placement agency" as any county welfare department; county social service department; county mental health department; county public guardian; general acute care hospital discharge planner or coordinator; state-funded program or private agency providing placement or referral services; conservator, as specified; and, regional center for persons with developmental disabilities which is engaged in finding homes or other places for the placement of elderly persons for temporary or permanent care. *(HSC 1569.47(a))*

4) Prohibits a placement agency, or their employee, from placing individuals in licensed RCFEs when the individual, because of his or her health condition, cannot be cared for within the limits of the license or requires inpatient care in a health facility, as well as prohibits a placement agency or their employee from placing individuals in unlicensed RCFEs, as provided. Further provides that a violation of these provision is a misdemeanor. *(HSC 1569.47(b)-(c))*

5) Requires any employee of a placement agency who knows, or reasonably suspects, that a facility which is not exempt from licensing is operating without

a license to report the name and address of the facility to CDSS. Further provides that failure to report as required by this provision is a misdemeanor. *(HSC 1569.47(d))*

6) Requires CDSS to investigate any report filed, and if the CDSS has probable cause to believe that the facility which is the subject of the report is operating without a license, requires the department to investigate the facility within 10 days after receipt of the report. *(HSC 1569.47(e))*

7) Requires a placement agency to notify the appropriate licensing agency of any known or suspected incidents which would jeopardize the health or safety of residents in a RCFE. Defines reportable incidents to include, but not be limited to incidents of physical abuse; any violation of personal rights; any situation in which a facility is unclean, unsafe, unsanitary, or in poor condition; any situation in which a facility has insufficient personnel or incompetent personnel on duty; and/or, any situation in which residents experience mental or verbal abuse. *(HSC 1569.47(f))*

This bill:

1) Deletes existing law pertaining to placement agencies and replaces with the below provisions.

2) Defines "compensated referral" to mean a referral by a private, for-profit or nonprofit agency that is engaged in the business of referring persons to RCFEs in exchange for any consideration or thing of value, including a fee, commission, gift, or any reciprocal benefit.

3) Defines "referral" to mean identifying and connecting a senior or that senior's representative to an RCFE to facilitate the further evaluation, in consultation with the facility, of whether that facility is a suitable senior housing option for that senior.

4) Provides that a referral source does not include a licensee of an RCFE, or any professional services staff member of an RCFE, who on behalf of that facility makes a referral, even if they have received a discount or other remuneration from the facility.

5) Prohibits a referral source from referring a person to a facility providing care and supervision or protective supervision if the referral source knows or should have known the facility is not licensed as a RCFE or is not exempt from licensing, as provided. Further provides that a violation of this provision is a misdemeanor.

6) Prohibits a referral source from referring an individual to an RCFE if the referral source knows or should have known the individual, because of their health condition, cannot be cared for within the limits of the facility's license or requires inpatient care in a health facility. Provides that violation of this prohibition is a misdemeanor.

7) Prohibits a referral source from referring a person to an RCFE in which the referral source, and an affiliated group, as specified, or immediate family member of the referral source, has an ownership or management interest or a common employee in an executive management position, unless the referral source obtains a written waiver from the senior or that senior's representative before making the referral. Provides that violation of this prohibition is a misdemeanor.

8) Requires a referral source who knows, or should have known, that a facility that is not exempt from licensing is operating without a license shall report the name and address of the facility to CDSS. Provides that failure to make this report is a misdemeanor.

9) Requires CDSS to investigate any report of an unlicensed facility. Further requires that, if CDSS has probable cause to believe that the facility that is the subject of the report is operating without a license, CDSS must investigate the facility within 10 days after receipt of the report.

10) Requires a referral source to notify the appropriate licensing agency of any known or suspected incidents that would jeopardize the health or safety of residents in an RCFE. Provides that violation of this notification is a misdemeanor. Defines reportable incidents to include, but not be limited to incidents of physical abuse; any violation of personal rights; any situation in which a facility is unclean, unsafe, unsanitary, or in poor condition; any situation in which a facility has insufficient personnel or incompetent personnel on duty; and any situation in which residents experience mental or verbal abuse.

11) Requires that a referral source, before sending a compensated referral to an RCFE located in California, provide the senior or their representative with specified disclosures, including a statement regarding whether and under what circumstances the referral source will be paid a fee by an RCFE to which the senior is referred; a statement that the senior or representative may request in writing that the referral source cease contact with the senior or the senior's representative; among other disclosures.

12) Requires the information and disclosures listed in 11) above be provided to the senior or their representative in a clear manner designed to give actual notice of its contents and may be provided, together or separately, in hardcopy form, on a web page, or verbally, as specified.

13) Requires the referral source to maintain records of the required disclosures for a period of three years and shall provide a copy of the disclosures provided to the senior, representative, or the RCFE, upon written request.

14) Requires a compensated referral source to comply with all of the following:

    a) Use a nationally accredited service provider to perform background checks on referral sources who have direct contact with seniors or their representatives.

    b) Maintain liability insurance coverage in an amount of at least $1 million per occurrence and $2 million in total annual aggregate for negligent acts or omissions by the referral source or any of its employees.

    c) Accept remuneration only from RCFEs with which the referral source has a written contract.

    d) Maintain and prominently display a privacy policy on every internet website it operates or, if the referral source does not maintain an internet website, then it shall provide the senior or the senior's representative with a written copy of the privacy policy.

    e) Refrain from holding any power of attorney for a resident or potential resident or from holding that person's property in any capacity.

    f) Cease making referrals on behalf of the senior or the senior's representative within 10 days after receipt of an oral, electronic, or written request, as specified. Limits oral requests to a recorded line designated by the referral source for that purpose, and electronic requests to email or the completion of an online form provided on the referral source's internet website for that purpose.

    g) Cease contacting a senior or senior's representative within 10 days after receipt of an oral, electronic, or written request, as specified. Limits oral requests to a recorded line designated by the referral source for that purpose, and electronic requests to email or the completion of an online form provided on the referral source's internet website for that purpose.

15) Provides that a referral source that violates mandated disclosures is subject to a civil penalty of between $250 and $1,000 for each violation, and that Health and Safety Code Section 1569.40, which makes violations a misdemeanor, shall not apply. Permits a district attorney or city attorney to institute a proceeding in superior court to recover the civil penalties and to restrain and enjoin a violation of the disclosure mandates.

Comments

According to the author, "during COVID-19, referral agencies have been a crucial part of placement decisions as visitation is either not an option or infrequent to limit the exposure of residents and staff. This legislation, if passed, would allow for more transparency and access of information for consumers seeking placement at a residential care facility. AB 499 seeks to protect all interested parties [residents, client families, referral agencies, and residential care facilities] by codifying a number of regulations during a referral source's interaction with a client and increased regulations on referral sources. Currently, the law loosely regulates 'placement agencies' focusing solely on the interaction between them and a residential care facility for the elderly."

Residential Care Facilities for the Elderly. Long-term care facilities provide inpatient care to individuals over extended periods of time. In general, long-term care facilities are appropriate for persons who are elderly, chronically ill, or in need of extensive rehabilitative services. There are three generally recognized classifications of long-term care facilities: skilled nursing facilities, intermediate care facilities, and RCFEs, which are the subject of this bill.

RCFEs, also known as assisted living facilities, are residential facilities that provide 24-hour nonmedical care and supervision for persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual who is 60 years of age or older. RCFEs provide housing, housekeeping, supervision, and personal care assistance with activities of daily living to individuals who need that level of care. These are nonmedical facilities that are designed for individuals who are unable to live by themselves, but who do not need 24-hour nursing care. These facilities range in size from small facilities operating out of single family homes serving a handful of residents to larger buildings that can house over a 100 residents.

Unregulated Referral Agencies. When a person can no longer live independently due to age or disability, locating appropriate housing and support can be an overwhelming endeavor. It is especially challenging if the person doing the searching is not familiar with the various types of assisted living services and

settings. Under such circumstances, businesses, often referred to "referral agencies," offer the service of identifying and referring seniors, or their representatives, to potentially suitable living arrangements, or "placements". Referral agencies are also known as "placement agencies" and "referral sources" and they range from small local businesses to large, internet-based agencies that provide referral services across the country. By law, the referrals must be made to an appropriately licensed facility that can provide necessary care for the senior within the limits of the RCFE license.

Private referral agencies typically provide free referrals but receive compensation from RCFEs. Business models vary, but it is common that clients do not pay a fee for a referral. Clients also do not usually enter into a contract with the agency. Instead, referral agencies typically have financial arrangements with RCFEs and receive a fee, often, reportedly, the amount of one month's rent in the facility, if an individual moves into an RCFE because of an agency's referral.

This bill represents the fifth attempt since 2015 to regulate compensated referral agencies. Broadly, these bills can be grouped into two separate efforts. First, three bills, SB 648 (Mendoza, 2015), SB 648 (Mendoza, 2017), and AB 2744 (Reyes, 2018), attempted to establish comprehensive regulatory schemes for these entities. AB 2744 was opposed by A Place for Mom and all three bills were opposed by Caring.com, the two largest referral agencies.

The second group of bills, which includes this bill and AB 2926 (Calderon, 2020), are sponsored by two referral agencies. The sponsors argue they have struck a more appropriate balance by establishing disclosure requirements without imposing costs to the state or unduly burdening the industry, as they allege prior consumer protection efforts did.

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

According to the Senate Appropriations Committee:

- *Department of Justice (DOJ)*. No significant impact for staff overtime to process this increase in arrest prints. DOJ notes, while the impact of AB 499 would not pose a significant impact to the DOJ, as numerous bills this session may result in no significant impact to the DOJ, should an aggregate of these bills chapter, the DOJ would submit a workload BCP for additional resources to process the increase to the DOJ workload.

- *Court costs*. Staff estimates unknown, potentially significant workload cost pressures to the courts to adjudicate alleged violations of this bill. While the

superior courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to fund additional staff and resources.

SUPPORT: (Verified 8/25/22)

A Place for Mom (co-source)
Caring.com (co-source)
Act Eight, LLC (co-source)
California Council of Community Behavioral Health Agencies

OPPOSITION: (Verified 8/25/22)

California Advocates for Nursing Home Reform
California Long-Term Care Ombudsman Association
Justice in Aging

ARGUMENTS IN SUPPORT: A Place for Mom, a co-sponsor of this bill, writes: "AB 499 is the result of six years of legislative discussions contemplating how to provide consumer benefit-oriented notice to families without costs to the state or undue burden the industry, while positively changing the playing field within the industry. After six months of negotiations with the Consumer Advocates for RCFE Reform (CARR) and other stakeholders, the amended version strikes a good balance between consumer notice and protections. For the first time in California, this bill would create statutory requirements for disclosures to families, limit conflict of interests, and provide background checks and insurance coverage minimums."

A Place for Mom also notes that this bill "limits any back channel remuneration to a referral agency, requires that referral agencies maintain and display a privacy policy on their internet websites, and prevents conflict of interest situations in referrals. AB 499 would enact basic consumer disclosures and protections that will assist California families dealing with the difficult problem of finding the right senior living facility for their loved one, often at a time of stress and crisis for the family without impeding the work of companies like A Place for Mom and Caring.com that are dedicated to helping these families through this process."

ARGUMENTS IN OPPOSITION: Justice In Aging writes: "AB 499 would weaken important consumer protections under California Health & Safety Code… Currently, California Health and Safety Code, Section 1569.47 prohibits agencies from referring individuals to a facility that is unlicensed or whose license does not cover the needs of the individual, and imposes strict liability on improper referrals.

AB 499 significantly weakens this prohibition, holding agencies liable only if the referring agency knew or should have known that the facility is unlicensed or insufficient… shift[ing] the burden of determining a facility's license status to consumers. AB 499 purportedly requires referral agencies to make various disclosures, including any financial or ownership interest in or compensation arrangements with referred facilities. However, referral agencies are allowed to choose whether to do so in writing, by directing to a website, or through verbal consent on a recorded line. Request for a written copy of the disclosure by a consumer, on the other hand, must be made in writing, putting unreasonable burden on consumers. Providing disclosures on a recorded line protects only the referral agency and leaves consumers vulnerable to coercive business practices.

"California should strictly regulate financially motivated referral agencies to ensure that at-risk individuals in need of residential placement are provided with appropriate referrals to facilities licensed in accordance with California law. AB 499 fails to provide sufficient protections, and leaves consumers vulnerable to coercive and misleading business practices."

ASSEMBLY FLOOR: 78-0, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

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

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THIRD READING

Bill No: AB 503
Author: Stone (D), et al.
Amended: 8/4/22 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-1, 6/29/21
AYES: Bradford, Kamlager, Skinner, Wiener
NOES: Ochoa Bogh

ASSEMBLY FLOOR: 35-22, 4/12/21 (FAIL) - See last page for vote

ASSEMBLY FLOOR: 41-22, 4/19/21 - See last page for vote

SUBJECT: Wards: probation

SOURCE: Alliance for Boys and Men of Color
Communities United for Restorative Youth Justice
National Center for Youth Law
W. Haywood Burns Institute
Young Women's Freedom Center
Youth Justice Coalition

DIGEST: This bill (1) limits the period of time in which a court may place a ward of the court on probation to six months, except that a court may extend probation in six month increments upon proof by a preponderance of the evidence that it is in the best interest of the ward; (2) requires that the conditions of probation be individually tailored, developmentally appropriate, and reasonable; and (3) requires that the burden imposed by the probation conditions must be proportional to the legitimate interests served by the conditions.

Senate Floor Amendments of 8/4/22 make conforming changes to avoid chaptering issues with AB 200 (Committee on Budget, Chapter 58, Statutes of 2022).

Senate Floor Amendments of 6/28/22 simplify language that allows the ward or prosecuting attorney to present relevant evidence to the court and remove the

requirements that the court state the basis for not accepting evidence as well as set forth the reasons in an order if requested by either party or when the proceedings are not being recorded electronically or reported by a court reporter.

Senate Floor Amendments of 8/18/21 allow the court to decide how it will accept evidence in each case; require the court, if it chooses not to allow any evidence, to state on the record the reason for doing so; specify that if a youth has a Welfare and Institutions Code Section 607.2 hearing, the youth will remain a ward of the court until that hearing, but that probation will be terminated at the appropriate time; and include other technical and conforming changes.

ANALYSIS:

Existing law:

1) Provides that a minor between 12 and 17 years of age, inclusive, who violates any federal, state, or local law or ordinance, and a minor under 12 years of age who is alleged to have committed murder or a specified serious sex offense, is within the jurisdiction of the juvenile court, which may adjudge the minor to be a ward of the court. (Welf. & Inst. Code, § 602.)

2) Provides, effective July 1, 2021, that the juvenile court may retain jurisdiction over a ward until the person attains 21 years of age, except that if the wardship is based on the commission of a specified serious offense, the juvenile court may retain jurisdiction until age 23, unless the ward would have faced an aggregate sentence of seven years or more in criminal court, in which case the juvenile court may retain jurisdiction until age 25. (Welf. & Inst. Code, § 607, subds. (a)-(c), as effective July 1, 2021.)

3) Authorizes the juvenile court to place a ward of the court on supervised probation. Authorizes the court to make any reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the ward. (Welf. & Inst. Code, § 727, subd. (a).)

4) Provides that if a minor is found to be a ward of the juvenile court due to the commission of a battery on school property, the court as a condition of probation is required to order the minor to make restitution to the victim. (Welf. & Inst. Code, § 729.)

5) Provides that when a ward is placed under the supervision of the probation officer or committed to the care, custody, and control of the officer, the juvenile court may make any and all reasonable orders for the conduct of the ward, and impose and require any and all reasonable conditions that it may

determine fitting and proper to the end that justice may be done and the reformation and rehabilitation of the ward enhanced. (Welf. & Inst. Code, § 730, subd (b), as repealed on July 1, 2021, & § 730, subd. (b), as operative on July 1, 2021.)

6) Authorizes the court to order the ward go to work and earn money for the support of the ward's dependents or to effect reparation and in either case that the ward keep an account of the ward's earnings and report the same to the probation officer and apply these earnings as directed by the court. (Welf. & Inst. Code, § 730, subd. (b), as repealed on July 1, 2021, & § 730, subd. (b), as operative on July 1, 2021.)

7) Authorizes, effective July 1, 2021, the court to order the ward to make restitution, pay a fine up to $250 for deposit in the county treasury if the court finds the minor has the financial ability to pay, or to participate in an uncompensated work program. (Welf. & Inst. Code, § 730, subd. (a)(1)(A), as operative on July 1, 2021.)

8) Requires the court, upon a minor being found a ward of the court, to order the minor to pay a restitution fine and restitution to the victim or victims, if any. (Welf. & Inst. Code, § 730.6, subd. (a)(2).)

9) Authorizes the board of supervisors of any county to impose a fee to cover the actual administrative cost of collecting the restitution fine, not to exceed 10 percent of the amount ordered to be paid, to be added to the restitution fine and included in the order of the court, the proceeds of which are required to be deposited in the general fund of the county. (Welf. & Inst. Code, § 730.6, subd. (q).)

This bill:

1) Prohibits a minor adjudged to be a ward of the court who is subject to an order of probation, with or without supervision of the probation officer, from remaining on probation for a period that exceeds six months, except as specified.

2) Provides that a court may extend the probation period for a period not to exceed six months after a noticed hearing and upon proof by a preponderance of the evidence that it is in the ward's best interest.

3) Requires the probation agency to submit a report to the court detailing the basis for any request to extend probation at the hearing.

4) Requires that the ward's attorney be given the opportunity to examine witnesses and present evidence at the probation review hearing.

5) Requires the court state the reasons for the findings orally on the record in cases in which the court finds by a preponderance of the evidence a basis for extending probation beyond the six-month period. Requires the court to set forth the reasons in an order entered upon the minutes if requested by either party or when the proceedings are not being recorded electronically or reported by a court reporter.

6) Requires, if the court extends probation, that the court schedule and hold a noticed hearing for the ward not less frequently than every six months for the remainder of the wardship period.

7) Requires the court, prior to terminating jurisdiction over a ward subject to an order for foster care placement, to comply with existing provisions of law related to terminating jurisdiction over those youth. Prohibits the requirement to comply with those provisions of law from being a basis for continuing an order of probation or the terms and conditions of such an order.

8) Provides that its provisions do not preclude termination of a ward's probation before the end of a six-month period.

9) Provides that it does not apply to any ward who is transferred from a secure youth treatment facility to a less restrictive program, as specified, and who is subject to any remaining baseline or modified baseline term until the ward is discharged pursuant to a probation discharge hearing, as described.

10) Requires that the conditions of probation ordered when a ward is placed on supervised or unsupervised probation meet all of the following requirements:

    a) The conditions are individually tailored, developmentally appropriate, and reasonable.

    b) The burden imposed by the conditions must be proportional to the legitimate interests served by the conditions.

    c) The conditions are determined by the court to be fitting and proper to the end that justice may be done and the reformation and rehabilitation of the ward enhanced.

11) Amends existing law that authorizes the court to order the ward to make restitution, to pay a fine up to $250 for deposit in the county treasury if the

court finds that the minor has the financial ability to pay the fine, or to participate in uncompensated work programs, and instead limits the court's authority to only order restitution.

12) Amends several provisions of law requiring the juvenile court to impose specific conditions of probation on a ward of the court and instead makes all of those conditions of probation discretionary.

13) Includes several legislative findings and declarations.

Background

Probation Generally

The juvenile court is authorized to place a minor declared to be a ward of the court on probation. Juvenile probation can theoretically continue as long as the juvenile court has jurisdiction over the ward. There is no statutorily required periodic review. (Welf. & Inst. Code, §§ 602, 607, 727, 730, subd. (b).)

Concerns about the use of juvenile probation were outlined in a recent report published by two of the bill's co-sponsors, the National Center for Youth Law and Haywood Burns Institute:

> Probation is the most common court ordered outcome imposed on youth in juvenile court in California. Too often, youth are placed on probation for an unspecified amount of time, while under the microscope of overly burdensome and confusing probation conditions. Conditions are rarely individualized—or realistic—and are ultimately impediments to healthy youth development and rehabilitation. Furthermore, available data show that probation is more frequently imposed on youth of color, and for longer periods of time. Together, these practices trap many young people in the legal system for their entire adolescence, lead to further use of detention, and cause far more harm than good. (National Center for Youth Law and W. Haywood Burns Institute, *Ending Endless Probation* (Mar. 2021), p. 2, citing The Annie E. Casey Foundation, *Transforming Juvenile Probation: A Vision for Getting it Right* (2018).)

The California Department of Justice reported that in 2019, almost 20,000 youth in California were placed on wardship probation. (Office of the Attorney General, California Department of Justice, *Juvenile Justice in California* (2019), p. 40, available at <https://data-openjustice.doj.ca.gov/sites/default/files/2020-06/Juvenile%20Justice%20In%20CA%202019.pdf .) The report included the percentage of each type of juvenile court disposition (e.g., wardship, informal

probation, dismissed, etc.) within each racial or ethnic category, and indicated that 51.2% of White youths were placed on wardship probation, 63.4% Hispanic youths were placed on wardship probation, 63.4% Black youths were placed on wardship probation, and 48.6% of youth identified as "Other" were placed on wardship probation. (*Id*. at p. 41.)

Probation Conditions

A juvenile court may impose on a minor on probation "any and all reasonable conditions that it may determine fitting and proper to the end that justice may be done and the reformation and rehabilitation of the ward enhanced." (Welf. & Inst. Code, § 730, subd. (b).) "A juvenile court enjoys broad discretion to fashion conditions of probation for the purpose of rehabilitation and may even impose a condition of probation that would be unconstitutional or otherwise improper so long as it is tailored to specifically meet the needs of the juvenile." (*In re Josh W.* (1997) 55 Cal.App.4th 1, 5; *In re Sheena K.* (2007) 40 Cal.4th 875, 889.)

In *People v. Lent* (1975) 15 Cal.3d 481, the California Supreme Court articulated the following test to determine whether a probation condition constitutes an abuse of discretion: "A condition of probation will not be held invalid unless it '(1) has no relationship to the crime of which the offender was convicted, (2) relates to conduct which is not in itself criminal, and (3) requires or forbids conduct which is not reasonably related to future criminality.'" (*Id*. at p. 486.) "This test is conjunctive—all three prongs must be satisfied before a reviewing court will invalidate a probation term." (*People v. Olguin* (2008) 45 Cal.4th 375, 379.) "As such, even if a condition of probation has no relationship to the crime of which a defendant was convicted and involves conduct that is not itself criminal, the condition is valid as long as the condition is reasonably related to preventing future criminality." (*Id*. at pp. 379-380.) The *Lent* test applies to juvenile probation conditions. (*In re P.O.* (2016) 246 Cal.App.4th 288, 294; *In re D.G.* (2010) 187 Cal.App.4th 47, 52.) In *In re Ricardo P.* (2019) 7 Cal.5th 1113, the California Supreme Court noted that "*Lent*'s requirement that a probation condition must be 'reasonably related to future criminality' contemplates a degree of proportionality between the burden imposed by a probation condition and the legitimate interests served by the condition." (*Id*. at p. 1122.)

The proponents of this bill argue that youth are "burdened with excessive and arbitrary probation conditions which, research has shown, harms their development and prospects for rehabilitation." (*Ending Endless Probation*, *supra*, at p. 5.) This bill requires conditions of probation for a ward to be individually tailored, developmentally appropriate, and reasonable. This bill additionally requires that

the burden imposed by those conditions is proportional to the legitimate interests served by the conditions.

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

SUPPORT: (Verified 8/4/22)

Alliance for Boys and Men of Color (co-source)
Communities United for Restorative Youth Justice (co-source)
National Center for Youth Law (co-source)
W. Haywood Burns Institute (co-source)
Young Women's Freedom Center (co-source)
Youth Justice Coalition (co-source)
ACLU California Action
Alianza for Youth Justice
California Alliance for Youth and Community Justice
California Attorneys for Criminal Justice
California Catholic Conference
California Coalition for Youth
California Public Defenders Association
CASA of Los Angeles
Ceres Policy Research
Children Now
Children's Defense Fund – California
Chispa
Commonweal Juvenile Justice Program
Community Agency for Resources Advocacy and Services
Community Works
County of San Diego
Courage California
Drug Policy Alliance
East Bay Community Law Center
Ella Baker Center for Human Rights
Empowering Pacific Islander Communities
Felony Murder Elimination Project
Freedom 4 Youth
Fresno Barrios Unidos
Human Rights Watch
Immigrant Legal Resource Center
Initiate Justice
John Burton Advocates for Youth

Khmer Girls in Action
Legal Services for Prisoners with Children
Monarch Services
National Association of Social Workers, California Chapter
National Institute for Criminal Justice Reform
National Juvenile Justice Network
Public Counsel
Reuniting Families Contra Costa
San Francisco Public Defender
San Mateo County Participatory Defense
Showing Up for Racial Justice Bay Area
Sigma Beta Xi, Inc.
Silicon Valley De-Bug
The Children's Initiative
Underground GRIT
Voices Youth Centers
Women's Foundation California
Youth Alive!
Youth Alliance
Youth Law Center

OPPOSITION: (Verified 8/4/22)

AFSCME Local 2703
AFSCME, AFL-CIO
Association of Orange County Deputy Sheriffs
Association of Probation Supervisors of Los Angeles County
California District Attorneys Association
Chief Probation Officers of California
Fraternal Order of Police, Southern California Probation, Lodge #702
Kern County Probation Officers Association
Los Angeles County Probation Officers Union, AFSCME Local 685
N. California Probation Lodge 19, California Fraternal Order of Police
Peace Officers' Research Association of California
Professional Managers Association, AFSCME Local 1967
Sacramento County Probation Association
San Diego County Probation Officers Association
San Joaquin County Probation Officers Association
San Luis Obispo County Probation Peace Officers Association
Santa Clara County Probation Peace Officers' Union, AFSCME Local 1587
Solano Probation Peace Officer Association

State Coalition of Probation Organizations
Ventura County Professional Peace Officers Association

ASSEMBLY FLOOR: 35-22, 4/12/21 (FAIL)
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Berman, Bloom, Bonta, Calderon, Carrillo, Chiu, Cooley, Daly, Friedman, Gabriel, Cristina Garcia, Lorena Gonzalez, Grayson, Jones-Sawyer, Kalra, Lee, Levine, McCarty, Medina, Mullin, Nazarian, Quirk, Reyes, Luz Rivas, Robert Rivas, Santiago, Stone, Ting, Ward, Wicks, Wood, Rendon
NOES: Bigelow, Choi, Cooper, Cunningham, Megan Dahle, Davies, Flora, Fong, Frazier, Gallagher, Kiley, Lackey, Mathis, Mayes, Nguyen, Patterson, Salas, Seyarto, Smith, Valladares, Villapudua, Voepel
NO VOTE RECORDED: Arambula, Boerner Horvath, Burke, Cervantes, Chau, Chen, Eduardo Garcia, Gipson, Gray, Holden, Irwin, Low, Maienschein, Muratsuchi, O'Donnell, Petrie-Norris, Quirk-Silva, Ramos, Rodriguez, Blanca Rubio, Waldron

ASSEMBLY FLOOR: 41-22, 4/19/21
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bonta, Calderon, Carrillo, Chiu, Cooley, Daly, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Jones-Sawyer, Kalra, Lee, Levine, McCarty, Medina, Mullin, Nazarian, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cooper, Cunningham, Megan Dahle, Davies, Fong, Frazier, Gallagher, Gray, Kiley, Lackey, Mathis, Nguyen, Patterson, Salas, Seyarto, Smith, Valladares, Villapudua, Voepel
NO VOTE RECORDED: Arambula, Burke, Cervantes, Chau, Flora, Irwin, Low, Maienschein, Mayes, Muratsuchi, O'Donnell, Petrie-Norris, Ramos, Rodriguez, Blanca Rubio, Waldron

Prepared by: Stephanie Jordan / PUB. S. /
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****** END ******

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THIRD READING

Bill No: AB 512
Author: Holden (D)
Amended: 8/1/22 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 13-0, 6/28/22
AYES: Newman, Allen, Archuleta, Becker, Cortese, Dodd, Hertzberg, Limón, McGuire, Min, Rubio, Skinner, Wieckowski
NO VOTE RECORDED: Bates, Dahle, Melendez, Wilk

SENATE APPROPRIATIONS COMMITTEE: 5-0, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NO VOTE RECORDED: Bates, Jones

ASSEMBLY FLOOR: 68-0, 6/1/21 - See last page for vote

SUBJECT: State highways: relinquishment: infrastructural barriers

SOURCE: Author

DIGEST: This bill authorizes the California Transportation Commission to relinquish a portion of a state highway that contains an infrastructural barrier, as defined, to a city or county under specified conditions.

ANALYSIS: Existing law establishes a process whereby the California Transportation Commission (CTC) may relinquish to any county or city any portion of any state highway within that county or city. Specified public notice is required and the highway must be in a state of good repair. (SHC §73)

This bill authorizes the CTC to relinquish a portion of a state highway that contains an infrastructural barrier, as defined, to a city or county if the Department of Transportation (Caltrans) and the applicable city or county enter into an agreement subject to the following conditions:

- The portion of the state highway is located within the territorial limits of the city or county entering into the agreement.
- The CTC determines the relinquishment is in the best interest of the state.
- The CTC holds a public hearing on the proposed relinquishment.
- The purposes of the relinquishment are for restorative economic and social justice.
- The infrastructural barrier shall be removed or retrofit in a manner that enhances community connectivity.
- Any land made available to the removal or retrofit of the infrastructural barrier shall be redeveloped with a focus on implementing improvements that will benefit the populations impacted by or previously displaced by the infrastructural barrier.
- A part of the relinquished portion of the highway shall be used for transportation purposes to ensure the continuity of traffic flow.
- The relinquishment is consistent with federal law and regulations.
- The city or county determines that the construction of the infrastructural barrier had a significant impact on a disadvantaged community.

Comments

1) *Purpose*. The author is concerned about the detrimental impacts of the highway system and that the state should provide a relinquishment solution to repair the damaged communities.

2) *Freeway Impacts.* There's been increasing recognition that freeways can be harmful to the adjacent neighborhoods and that the construction of freeways has broken apart communities. This is one of several reasons that it is rare to build new highways. Moreover, there are efforts underway to undo some of the damage. In 2021 the federal Infrastructure Investment and Jobs Act established a $1 billion grant program known as the Reconnecting Communities Pilot Grant Program to restore community connectivity through the removal, retrofit, mitigation or replacement of eligible transportation infrastructure that creates barriers in communities. A similar program has been proposed by the Newsom Administration, known as the Highways to Boulevards program.

3) *Staying Within the Lines*. Property that was acquired using federal funds must continue to be used for that purpose even if relinquished to a city or county. This bill contemplates using relinquished property for affordable housing, green space and transit-oriented development. Some of these purposes may conflict with the restrictions on the use of the federal funds. If so, the federal government will seek reimbursement which would be a surprise bill for the city or county. Similarly, the California Constitution limits the use of gas taxes, and some of the purposes authorized with this bill may conflict with those limitations. This bill provides that any relinquishment shall not be subject to federal reimbursement and may not conflict with the California Constitution.

4) *Opposition*. No opposition for the current version of this bill. Opposition letters refer to prior version of the bill.

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

According to the Senate Appropriations Committee:

- Unknown, potentially significant future costs related to the relinquishment of highway segments, to the extent the agreements between Caltrans and local agencies include one-time payments or new costs related to the removal or retrofit of the infrastructural barrier. These costs may be partially or fully offset in future years due to avoided maintenance costs on a relinquished segment. Actual costs or savings would depend upon the details of each agreement and the characteristics of a particular infrastructural barrier. (State Highway Account)

- CTC indicates that costs and resource needs are unknown and would depend upon how many new relinquishment proposals are considered each year as a result of this bill. Costs could be minor and absorbable, to the extent that the number of relinquishments do not significantly increase, but this bill may impact staff workload and impose new costs on the CTC if it results in additional proposals at each CTC meeting. (State Highway Account)

SUPPORT: (Verified 8/11/22)

California Apartment Association

OPPOSITION: (Verified 8/11/22)

None received

ASSEMBLY FLOOR: 68-0, 6/1/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Cooley, Cooper, Cunningham, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Stone, Ting, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bigelow, Choi, Megan Dahle, Gray, Kiley, Lackey, Nguyen, Patterson, Smith, Valladares, Voepel

Prepared by: Randy Chinn / TRANS. / (916) 651-4121
8/13/22 9:35:02

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

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THIRD READING

Bill No: AB 547
Author: McCarty (D)
Amended: 6/2/22 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 5/31/22
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 66-0, 1/14/22 - See last page for vote

SUBJECT: Domestic violence: victim's rights

SOURCE: WEAVE

DIGEST: This bill requires the county probation department to notify a victim of domestic violence, abuse, or stalking, of the perpetrator's current or proposed community of residence, if the victim has requested such notification.

ANALYSIS:

Existing law:

1) Requires the California Department of Corrections and Rehabilitation (CDCR), county sheriff, or director of the local department of corrections to give notice to a victim of stalking or felony domestic violence prior to the release of the person convicted of stalking or felony domestic violence. (Pen. Code § 646.92.)

2) Requires CDCR or the Board of Parole Hearings (BPH), whenever a person convicted of a violent felony is going to be released from state prison, to notify the local law enforcement agencies that have jurisdiction over the community in which the person was convicted and the community in which the person is scheduled to be released. (Pen. Code § 3058.6.)

3) Provides that whenever the sheriff or the chief of police is notified of the pending release of a convicted violent felon, that sheriff or chief of police may notify any person designated as an appropriate recipient of that notice. (Pen. Code § 3058.7, subd. (a).)

4) Requires CDCR or BPH to notify a victim or witness who has requested notification that a person convicted of a violent felony is scheduled to be released. Requires notice of the community in which the person is scheduled to reside also be given if it is in the county of residence of a witness, victim, or family member of a victim who has requested notification, or within 100 miles of the actual residence of a witness, victim, or family member of a victim who has requested notification. (Pen. Code § 3058.8, subd. (a).)

5) Requires, with respect to the conviction of a defendant involving a violent felony, the district attorney, probation officer, or victim-witness coordinator to notify the victim as to the victim's right to be sent notice of the defendant's release from custody. (Pen Code § 679.03, subd. (a)(1).)

This bill:

1) Requires the county probation department to notify a victim of domestic violence or abuse, as defined, or a victim of stalking, as defined, of the perpetrator's current community of residence or proposed community of residence upon release, when the perpetrator, after conviction, is placed on or being released on probation and under the supervision of the county probation department.

2) Requires the above notification to take place only if the victim has requested notification and has provided the probation department with a current address at which they may be notified.

3) Requires the district attorney to advise every victim of domestic violence or abuse, or stalking, of their right to request and receive notification.

Background

Penal Code Section 3058.8 requires CDCR or BPH to notify a victim or witness who has requested notification that a person convicted of a violent felony is scheduled to be released onto parole. Section 3058.8 further requires notice of the community in which the person is scheduled to reside if it is in the county of residence of a witness, victim, or family member of a victim who has requested notification, or within 100 miles of the actual residence of a witness, victim, or family member of a victim who has requested notification. Existing law also

requires CDCR or BPH to provide updated information to the witness, victim, or next of kin if there is a change in the community where the person is to reside.

This bill applies to individuals on probation, and requires the county probation department to notify a victim of domestic violence or stalking, of the perpetrator's current community of residence when the perpetrator is placed on probation after being convicted. If the perpetrator was in custody and is going to be placed on probation, the county probation department is required to notify the victim of the perpetrator's proposed community of residence. This bill specifies that notification take place only if the victim has requested notification and has provided the probation department with a current address at which they may be notified. Finally, this bill requires the district attorney to advise every victim of domestic violence or abuse, or stalking, of their right to request and receive notification.

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

According to the Senate Appropriations Committee, potentially ongoing reimbursable costs across all 58 counties for additional staff and infrastructure for county probation departments to notify victims of domestic violence, stalking or abuse of a perpetrator' address when the perpetrator is placed on probation. (Locals Funds, General Fund). Actual costs will depend on the number of victims that request information. Impact to the General Fund will depend on whether the duties imposed by this bill constitute a reimbursable state mandate, as determined by the Commission on State Mandates.

SUPPORT: (Verified 8/11/22)

WEAVE (source)
California Police Chiefs Association
Giffords Law Center to Prevent Gun Violence
Work Equity

OPPOSITION: (Verified 8/11/22)

None received

ASSEMBLY FLOOR: 66-0, 1/14/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Choi, Cooley, Cooper, Daly, Davies, Flora, Fong, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee,

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

NO VOTE RECORDED: Bigelow, Cervantes, Chen, Cunningham, Megan Dahle, Friedman, Holden, Mayes, Santiago, Voepel

Prepared by: Stephanie Jordan / PUB. S. /
8/13/22 9:34:57

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

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THIRD READING

Bill No: AB 551
Author: Rodriguez (D)
Amended: 6/28/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 6/1/22
AYES: Cortese, Ochoa Bogh, Durazo, Laird, Newman

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 54-13, 1/27/22 - See last page for vote

SUBJECT: Disability retirement: COVID-19: presumption

SOURCE: SEIU California

DIGEST: This bill extends the sunset date on the public pension disability retirement COVID-19 presumption established last year by AB 845 (Rodriguez, Chapter 122, Statutes of 2021), from January 1, 2023, to January 1, 2024.

Senate Floor Amendments of 6/28/22 change the bill's sunset date from January 1, 2025, to January 1, 2024.

ANALYSIS:

Existing law:

1) Provides a non-service connected (i.e., non-industrial) disability retirement for members of the California Public Employees' Retirement System (CalPERS) who meet service requirements and are incapacitated for the performance of duty, as specified. (Government Code § 21150 et seq.)

2) Authorizes a service-connected (i.e., industrial) disability retirement benefit for specified CalPERS members (usually safety members but also certain miscellaneous members) greater than the non-service disability benefit that also carries certain potential federal tax advantages. (GC §21151 et seq.)

3) Allows 37 Act county retirement systems to offer a non-service connected disability retirement to their members who are permanently incapacitated for the performance of their duties but not because of injury or disease arising out of their employment. (GC § 31725.8 et seq.)

4) Authorizes 37 Act county retirement systems to provide a service-connected disability retirement to their members who are permanently incapacitated for the performance of duty resulting from employment and upon meeting service requirements. (GC § 31720 et seq.)

5) Provides members of the California State Teachers' Retirement System (CalSTRS) who meet service requirements one of two forms of non-industrial disability retirement depending on when they became members. (Education Code §24001 et seq.; ED §24100 et seq.)

6) Requires members (or employers on behalf of the member) generally to apply for a disability retirement and show that their injury, whether industrial or not, prevents them from performing their job duties. (see e.g., ED § 24102 et seq.)

7) Creates various rebuttable presumptions whereby the pension system must presume that the member's specified condition or injury arose out of and in the course of employment. Such a presumption is significant in those systems that offer an industrial disability retirement benefit because it may qualify the member for the industrial retirement benefit (which may eliminate service requirements, provide a higher monthly pension benefit, and result in federal tax exemption treatment). However, the pension system can rebut the presumption with evidence that the injury did not arise from an employment-related event. (see e.g., GC § 31720.5 et seq.)

8) Requires a public retirement system to presume that the disability of a member who retires for disability on the basis, in whole or in part, of a COVID-19-related illness arose out of, or in the course of, the member's employment. (GC § 7523.1)

9) Allows evidence to the contrary to rebut the presumption described above but unless controverted, the presumption shall bind the applicable retirement system governing board. (GC § 7523.1)

10) Defines "COVID-19" to mean "the 2019 novel coronavirus disease". (GC § 7523)

11) Defines "Member" for purposes of the COVID-19 disability retirement presumption to mean a member of a public retirement system who meets either of the following:

    a) The member's job classification is either described in Labor Code (LC) Section 3212.87 (a) or is the functional equivalent of a job classification described in that subdivision.[1]

    b) The member's job classification is neither described in LC Section 3212.87(a) nor is the functional equivalent of a job classification described in LC Section 3212.87(a), but the member tests positive during an outbreak at the member's specific place of employment pursuant to definitions set forth in LC Section 3212.88 (m).[2] (GC § 7523)

12) Restricts the definition of "member" for purposes of the COVID-19 disability retirement presumption only to a member of a public retirement system subject to the Public Employees' Pension Reform Act of 2013 (PEPRA). (GC § 7523)

13) Provides that the COVID-19 rebuttable presumption provisions shall remain in effect only until January 1, 2023, and as of that date is repealed. (GC § 7523.2)

This bill extends the sunset date of the COVID-19 disability retirement presumption that was authorized by AB 845 (Rodriguez, Chapter 122, Statutes of 2021), from January 1, 2023, to January 1, 2024.

Background

AB 845 (Rodriguez, 2021) Disability Retirement COVID-19 Presumption

AB 845 established a COVID-19 rebuttable presumption until January 1, 2023, for public employee disability retirement. The bill was modeled after SB 1159 (Hill, Chapter 85, Statutes of 2020), which created a rebuttable presumption, until 2023, that illness or death related to COVID-19 is an occupational injury and therefore, such an injury qualifies the employee for workers' compensation benefits. AB 551

[1] LC § 3212.87 lists a wide array of positions frequently described as "first responders" that qualify for Workers' Compensation benefits from injury caused, as specified, by COVID-19, including many employees that are not eligible for industrial disability retirement benefits from a California public retirement system, although some may qualify for non-industrial disability retirement benefits.

[2] LC § 3212.88 establishes the specified COVID-19 Workers Compensation presumption for general employees who are not "first responders". LC § 3212.88(m) defines the terms "COVID-19", "test" or "testing", "specific place of employment", and "outbreak", as specified.

extends AB 845's sunset date so the COVID-19 presumption for public employee disability retirement will be effective until January 1, 2024.

Distinction between Disability Retirement Benefits and Workers Compensation

Workers compensation benefits arise out of *employment-related* injuries and provide qualified employees with medical, temporary compensation, permanent compensation, supplemental job displacement, and death benefits. Because receipt of workers compensation benefits hinges on the condition or injury arising from employment, a presumption that the condition or injury is job-related is very significant.

Although public pension systems generally have some form of *non-industrial* disability retirement benefit, not all public pension systems have *industrial disability* retirement benefits (i.e., for employment-related injury). For those that do, not all members are eligible for the industrial retirement benefits. Generally, industrial disability benefits are restricted to firefighters, peace officers, and other safety members although some related miscellaneous members are also statutorily eligible. For those members who *are* eligible, the presumption makes their application and eventual approval process easier. For those who are only eligible for *non-industrial* disability, a presumption that their condition or injury is employment-related is relatively irrelevant.

Disability benefits offered by public pension funds are generally not dependent on the injury being job-related. A member will receive a disability retirement benefit if the member meets specified service requirements (i.e., time in membership) and the injury prevents the member from performing the duties of the member's position. Thus, a presumption that the injury is employment-related is not determinative for receiving the disability benefit. *Some* members may be eligible for a better benefit or may not have to meet the service requirements if the injury is employment-related (i.e., an industrial disability). Statute specifies which member classifications are eligible for this industrial disability retirement benefit.

For members who are eligible, this bill's COVID-19 presumption would be beneficial because they would not have to prove their injury was job-related (unless the employer offered evidence that the injury was not COVID-19 related). For other members who are not eligible for industrial disability retirement benefits, the presumption cannot make them eligible.

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

SUPPORT: (Verified 6/21/22)

SEIU California (source)
Cal Fire Local 2881
California Association of Highway Patrolmen
California Federation of Teachers
California Professional Firefighters
California Retired Teachers Association
California State Teachers' Retirement System
California Teachers Association
Faculty Association of California Community Colleges

OPPOSITION: (Verified 6/21/22)

None received

ARGUMENTS IN SUPPORT: According to the author, "The symptoms of COVID-19 itself has negatively impacted the long-term health of those who contract it. Front line workers infected on the job and who need to retire due to COVID-19 and COVID-19-related illnesses should be protected. AB 551 is needed because we are still seeing COVID-19 infections in the workplace, as front line workers should continue to be protected."

According to the sponsor, SEIU California, "We are just discovering the lingering disabling effects of "Long Haul" COVID-19 patients and AB 551 Rodriguez is necessary to protect workers should these effects prove so disabling the worker may not be able to return to work. Workers and their dependents who contract COVID in the workplace will be protected from having to fight for benefits they paid for and are entitled to under long standing pension law. It is only fair that we treat them accordingly when they fall ill from a workplace COVID injury."

ASSEMBLY FLOOR: 54-13, 1/27/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Cervantes, Cooley, Cooper, Cunningham, Daly, Friedman, Gabriel, Gallagher, Cristina Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Choi, Davies, Flora, Fong, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Voepel

NO VOTE RECORDED: Mia Bonta, Bryan, Carrillo, Chen, Megan Dahle, Eduardo Garcia, Mayes, O'Donnell, Waldron

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
6/29/22 23:28:52

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

SENATE RULES COMMITTEE
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 558
Author: Nazarian (D), Kalra (D), Quirk-Silva (D) and Luz Rivas (D), et al.
Amended: 8/24/22 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 4-1, 6/22/22
AYES: Leyva, Glazer, McGuire, Pan
NOES: Dahle
NO VOTE RECORDED: Ochoa Bogh, Cortese

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 47-7, 1/27/22 - See last page for vote

SUBJECT: School meals: Child Nutrition Act of 2022

SOURCE: Factory Farming Awareness Coalition
Friends of the Earth
Social Compassion in Legislation

DIGEST: This bill requires the California Department of Education (CDE) to develop guidance for local educational agencies (LEAs) participating in the federal School Breakfast Program that maintain any of grades K-6 on how to serve eligible non-schoolaged children breakfast or a morning snack at an LEA schoolsite.

Senate Floor Amendments of 8/24/22 (1) require CDE to consult with the Department of Social Services when developing guidance; and, (2) delete the requirement that CDE evaluate the guidance and its impact on school breakfast programs.

ANALYSIS:

Existing law:

1) Requires all of the following, beginning with the 2022–23 school year:

a) A school district, charter schools, and county superintendent of schools maintaining any of grades K-12 to provide two school meals free of charge during each schoolday to any student who requests a meal, without consideration of the student's eligibility for a federally funded free or reduced-price meal. Meals must be nutritiously adequate meals that qualify for federal reimbursement.
b) An LEA that has a reimbursable school breakfast program to not charge any student, and to provide a breakfast free of charge to any student who requests one, without consideration of the student's eligibility for a federally funded free or reduced-price meal. The meals provided free of charge pursuant to this paragraph shall be nutritiously adequate, and shall count toward the total of two school meals required to be provided each schoolday. (Education Code (EC) § 49501.5)

2) Prohibits an LEA from denying a meal to any free or reduced-price eligible students, and requires that these students receive the same meal as all other students. (EC § 49550 and § 49557)

This bill:

1) Requires CDE to develop guidance, in consultation with the Department of Social Services (DSS), for LEAs participating in the federal School Breakfast Program that maintain any of grades K-6 on how to serve eligible non-schoolaged children breakfast or a morning snack at an LEA schoolsite.

2) Requires the guidance to highlight opportunities to maximize federal reimbursement through the federal School Breakfast Program and the federal Child and Adult Care Food Program.

3) Requires that a guardian of an eligible non-schoolaged child be present at the LEA schoolsite in order for the non-schoolaged child to receive breakfast or a morning snack at the schoolsite.

4) Requires the CDE to develop the guidance, in consultation with DSS, in a manner that does not jeopardize federal funding for school meal programs and that maximizes federal meal reimbursement.

5) Requires CDE to post the guidance on its website by July 1, 2023, and provides that CDE is not required to mail the guidance to LEA.

6) Provides that provisions related to this guidance does not require an LEA to take any action.

7) Defines:

   a) "Eligible non-schoolaged child" to mean a child who is not enrolled in school and who is a sibling, half sibling, or stepsibling of, or a foster child residing with, a student who meets the federal eligibility criteria for a free or reduced-price breakfast at an LEA participating in the federal School Breakfast Program that maintains any of grades K-6.
   b) "Guardian" to mean a parent, stepparent, grandparent, or other adult family member or caretaker who is caring for an eligible non-schoolaged child.
   c) "Local educational agency" to mean a school district, county office of education, or charter school.

8) States findings and declarations relative to the benefits to children who eat breakfast.

Comments

Need for this bill. According to the author, "Hunger among children is known to have significant short and long-term repercussions. In the short term, a child experiencing hunger is less likely to be able to focus in school, avert school disciplinary action, or participate in extra-curricular activities. In the long-term, childhood hunger increases the likelihood that the child will experience developmental delays, cognitive deficiencies, and adult auto-immune diseases that are both costly and painful.

"There is no federal prohibition to serving younger siblings of school-age children a morning snack through the Child and Adult Care Food Program at the same time and location as school-aged children receive their federally reimbursed school breakfast program. Ultimately, school districts need the appropriate resources and guidelines to ensure that siblings of enrolled students who qualify for the free or reduced lunch program will continue to receive the food security that they are already receiving due to the federal waiver signed in 2020.

"This bill will require the CDE to issue instructions to school districts participating in the Child and Adult Care Food Program on how to serve eligible nonschoolaged children breakfast or a morning snack at a school site."

Feeding siblings. This bill requires the CDE to issue guidance about how a school district, COE, or charter school could voluntarily serve younger siblings a federally reimbursable meal at a school site that their older sibling attends. Currently, schools may operate the School Breakfast Program, as well as the Child and Adult Care Food Program (CACFP), which allows but does not require younger, non-

schoolage children to be served. Schools may serve younger, non-schoolage children through the CACFP at the same time and location as serving schoolage children through the School Breakfast Program. Until July 1, 2022, schools were authorized, through federal waivers, to serve meals to anyone under the age of 18; the federal waivers that allowed this expired on June 30, 2022.

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

SUPPORT: (Verified 8/23/22)

Factory Farming Awareness Coalition (co-source)
Friends of the Earth (co-source)
Social Compassion in Legislation (co-source)
California Cattlemen's Association
California Farm Bureau Federation
California Poultry Federation
Dairy Institute of California
Physicians Committee for Responsible Medicine
Teamsters Public Affairs Council
Western United Dairymen

OPPOSITION: (Verified 8/23/22)

None received

ASSEMBLY FLOOR: 47-7, 1/27/22
AYES: Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Cervantes, Friedman, Gabriel, Cristina Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Voepel, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Flora, Gallagher, Mathis, Patterson, Seyarto, Smith
NO VOTE RECORDED: Aguiar-Curry, Mia Bonta, Carrillo, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Fong, Eduardo Garcia, Kiley, Lackey, Mayes, Nguyen, Quirk, Blanca Rubio, Valladares, Villapudua, Waldron

Prepared by: Lynn Lorber / ED. / (916) 651-4105
8/26/22 15:32:04

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

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THIRD READING

Bill No: AB 587
Author: Gabriel (D), et al.
Amended: 8/24/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-0, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, McGuire, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas, Jones

SENATE APPROPRIATIONS COMMITTEE: 5-0, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NO VOTE RECORDED: Bates, Jones

ASSEMBLY FLOOR: 64-1, 6/2/21 - See last page for vote

SUBJECT: Social media companies: terms of service

SOURCE: Anti-Defamation League

DIGEST: This bill requires social media companies, as defined, to post their terms of service and to submit reports to the Attorney General on their terms of service and content moderation policies and outcomes.

Senate Floor Amendments of 8/24/22 narrow the enforcement mechanism.

ANALYSIS:

Existing law:

1) Provides, through the California Constitution, for the right of every person to freely speak, write, and publish their sentiments on all subjects, being responsible for the abuse of this right. Existing law further provides that a law may not restrain or abridge liberty of speech or press. (Cal. Const., art. I, § 2(a).)

2) Provides, in federal law, that a provider or user of an interactive computer service shall not be treated as the publisher or speaker of any information provided by another information content provider. (47 U.S.C. § 230(c)(2).)

3) Limits the liability of a provider or user of an interactive computer service in connection with restricting access to certain materials. (47 U.S.C. § 230(c)(2).)

4) Establishes the Unfair Competition Law (UCL). (Bus. & Prof. Code § 17200 et seq.) Prohibits false or deceptive advertising to consumers about the nature of any property, product, or service, including false or misleading statements made in print, over the internet, or any other advertising method. (Bus. & Prof. Code § 17500.)

5) Requires certain businesses to disclose the existence and details of specified policies. (Bus. & Prof. Code § 22575; Civ. Code §§ 1714.43, 1798.90.53; Educ. Code § 66406.7(f).)

This bill:

1) Requires a social media company to post terms of service for each social media platform owned or operated by the company in a manner reasonably designed to inform all users of the social media platform of the existence and contents of the terms of service.

2) Requires the terms of service to be available in all Medi-Cal threshold languages, as defined, in which the social media platform offers product features, including, but not limited to, menus and prompts.

3) Requires social media companies to submit a terms of service report, on a semiannual basis to the Attorney General, who must make it available to the public in a searchable repository on its website.

4) Subject companies in violation to penalties of up to $15,000 per violation per day to be sought by specified public prosecutors.

Comments

In 2005, five percent of adults in the United States used social media. In just six years, that number jumped to half of all Americans. Today, over 70 percent of

adults use at least one social media platform. Facebook alone is used by 69 percent of adults, and 70 percent of those adults say they use the platform on a daily basis.

Given the reach of social media platforms and the role they play in many people's lives, concerns have arisen over what content permeates these sites, entering the lives of the billions of users, and the effects that has on them and society as a whole. In particular, the sharpest calls for action focus on the rampant spread of misinformation, hate speech, and sexually explicit content. Social media companies' content moderation of a decade ago involved handfuls of individuals and user policies were minimal. These programs and policies have dramatically evolved over the years but the proliferation of objectionable content and "fake news" has led to calls for swifter and more aggressive action in response. However, there has also been backlash against perceived censorship in response to filtering of content and alleged "shadow banning."

One area the author specifically focuses in on as motivation for the bill is the rise of hate speech online and the real world consequences. The author points to a recent study of over 500 million Twitter posts from 100 cities in the United States that found that "more targeted, discriminatory tweets posted in a city related to a higher number of hate crimes."[1] This bill seeks to increase transparency around what terms of service social media companies are setting out and how it ensures those terms are abided by. The goal is to learn more about the methods of content moderation and how successful they are.

According to the author:

> The line between providing an open forum for productive discourse and permitting the proliferation of hate speech and misinformation is a fine one, and depends largely on the structure and practices of the platform. However, these platforms rarely provide detailed insight into such practices, and into the relative effectiveness of different approaches. This, along with constraints imposed by existing federal law, has historically made policy-making in this space remarkably difficult. This bill seeks to provide critical transparency to both inform the public as to the policies and practices governing the content they post and engage with on social media, and to allow for comparative assessment of content moderation approaches to better equip both

[1] Press Release, *Hate speech on Twitter predicts frequency of real-life hate crimes* (June 24, 2019) NYU Tanden School of Engineering, **https://engineering.nyu.edu/news/hate-speech-twitter-predicts-frequency-real-life-hate-crimes**.

social media companies and policymakers to address these growing concerns.

This bill starts with a baseline requirement to have social media platforms post their terms of service. These policies must include information about how users can ask questions, how they can flag content or users in violation, and a list of potential actions that the company might take in response. To ensure meaningful access, the terms of service must be posted in a manner reasonably designed to inform all users of their existence and contents and available in all Medi-Cal threshold languages in which the social media platform offers product features. The bill next requires a detailed report to be compiled by these companies and submitted to the Attorney General on a semiannual basis. The bill also requires the report to contain a "detailed description of content moderation practices" used by the platform. The bill leaves enforcement to the Attorney General or specified city attorneys.

This bill is sponsored by the Anti-Defamation League. It is supported by a variety of groups, including Common Sense and the Islamic Networks Group. It is opposed by various technology and business associations, including the California Chamber of Commerce and TechNet.

For a more thorough analysis of the bill, including a discussion of the relevant legal obstacles posed by the First Amendment and Section 230 of the Communications Decency Act, please see the Senate Judiciary Committee analysis of the bill.

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

According to the Senate Appropriations Committee:

- DOJ: The Department of Justice (DOJ) reports costs of $414,000 in 2022-23 and $711,000 annually thereafter in order to enforce the provisions of AB 587 and for IT resources to allow for submissions of terms of service (General Fund).

- Judicial Branch: Unknown cost pressures due to increased court workload (Special Fund – Trial Court Trust Fund, General Fund).

SUPPORT: (Verified 8/23/22)

Anti-Defamation League (source)
Accountable Tech

Alameda County Democratic Party
American Academy of Pediatrics, California
American Association of University Women - California
American Association of University Women, Camarillo Branch
American Federation of State, County and Municipal Employees, AFL-CIO
American Jewish Committee - Los Angeles
American Jewish Committee - San Francisco
American Muslim & Multifaith Women's Empowerment Council
The Arc and United Cerebral Palsy California Collaboration
Armenian Assembly of America
Armenian National Committee of America - Western Region
Asian Americans in Action
Asian Law Alliance
Bend the Arc: Jewish Action
Buen Vecino
California Asian Pacific American Bar Association
California Democratic Party
California Federation of Teachers AFL-CIO
California Hawaii State Conference National Association for the Advancement of Colored People
California Labor Federation, AFL-CIO
California League of United Latin American Citizens
California Nurses Association
California State Council of Service Employees International Union (SEIU California)
California Women's Law Center
Center for LGBTQ Economic Advancement & Research (CLEAR)
Center for the Study of Hate & Extremism - California State University, San Bernardino
City of San Luis Obispo
College Democrats at UC Irvine
Common Sense
Consumer Reports Advocacy
Courage California
Davis College Democrats
Decode Democracy
Democratic Party of the San Fernando Valley
Democrats for Israel-Orange County
East Bay Young Democrats
Equality California

Esperanza Immigrant Rights Project, Catholic Charities of Los Angeles
The Greenlining Institute
Harvey Milk LGBTQ Democratic Club
Hindu American Foundation, Inc.
Islamic Networks Group
Islamic Networks Inc.
Israeli-American Civic Action Network
Japanese American Citizens League, Berkeley Chapter
Jewish Center for Justice
Jewish Family and Children's Services of San Francisco, the Peninsula, Marin and Sonoma Counties
Jewish Federation of Greater Los Angeles
Jewish Federation of The Sacramento Region and The Sacramento Jewish Community Relations Council
Jewish Public Affairs Committee
Korean American Bar Association of Northern California
Korean American Coalition - Los Angeles
League of United Latin American Citizens
Los Angeles County Democratic Party
Maplight
Media Alliance
Miracle Mile Democratic Club
National Association for the Advancement of Colored People, SV/SJ
Nailing It for America
National Center for Lesbian Rights
National Council of Jewish Women, California
National Hispanic Media Coalition
Oakland Privacy
Orange County Racial Justice Collaborative
Pakistani-American Democratic Club of Orange County
Pilipino American Los Angeles Democrats
Planned Parenthood Affiliates of California
Progressive Zionists of California
ProtectUS
Rabbis and Cantor of Congregation or Ami
Sacramento County Young Democrats
Sacramento LGBT Community Center
San Diego City Attorney’s Office

San Fernando Valley Young Democrats
San Francisco Democratic Party
Santa Barbara Women's Political Committee
Sikh American Legal Defense and Education Fund
Simon Wiesenthal Center, Inc.
The Source LGBT+ Center
Stonewall Democratic Club
United Food and Commercial Workers, Western States Council
United Nurses Associations of California/union of Health Care Professionals
Voices for Progress

OPPOSITION: (Verified 8/23/22)

California Chamber of Commerce
Chamber of Progress
Civil Justice Association of California
Computer and Communications Industry Association
Consumer Technology Association
Internet Coalition
MPA - the Association of Magazine Media
Netchoice
TechNet

ARGUMENTS IN SUPPORT: A coalition of groups, including ADL, Equality California, NAACP, and Esperanza Immigrant Rights Project, emphasizes the need for the bill:

"Despite the widespread nature of these concerns, efforts by social media companies to self-police such content have been widely criticized as opaque, arbitrary, biased, and inadequate. While some platforms share limited information about their efforts, the current lack of transparency has exacerbated concerns about the intent, enforcement, and impact of corporate policies, and deprived policymakers and the general public of critical data and metrics regarding the scope and scale of online hate and disinformation. Additional transparency is needed to allow consumers to make informed choices about the impact of these products (including the impact on their children) and so that researchers, civil society leaders, and policymakers can determine the best means to address this growing threat to our democracy.

AB 587 would address this troubling lack of transparency by requiring social media platforms to publicly disclose their policies and report key data and

metrics around the enforcement of their policies. This disclosure would be accomplished through quarterly public filings with the Attorney General."

ARGUMENTS IN OPPOSITION: A coalition, including TechNet, writes:

"AB 587 requires companies to publicly disclose more than just content moderation policies, which are already available to the public. The bill requires companies to report to the Attorney General sensitive information about how we implement policies, detect activity, train employees, and use technology to detect content in need of moderation. The language makes it explicit that the bill is seeking "detailed" information about content moderation practices, capabilities, and data regarding content moderation."

ASSEMBLY FLOOR: 64-1, 6/2/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper, Cunningham, Daly, Davies, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Gray
NO VOTE RECORDED: Bigelow, Chen, Choi, Megan Dahle, Flora, Fong, Kiley, Mathis, Mayes, Nguyen, Patterson, Seyarto, Smith, Voepel

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
8/26/22 15:32:05

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 661
Author: Bennett (D)
Amended: 8/25/22 in Senate
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 9-5, 6/14/22
AYES: Dodd, Allen, Becker, Bradford, Hertzberg, Hueso, Kamlager, Portantino, Roth
NOES: Nielsen, Borgeas, Jones, Melendez, Wilk
NO VOTE RECORDED: Glazer

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-2, 6/29/22
AYES: Allen, McGuire, Skinner, Stern, Wieckowski
NOES: Bates, Dahle

SENATE APPROPRIATIONS COMMITTEE: 4-2, 8/11/22
AYES: Portantino, Bradford, Laird, Wieckowski
NOES: Bates, Jones
NO VOTE RECORDED: McGuire

ASSEMBLY FLOOR: 56-19, 1/31/22 - See last page for vote

SUBJECT: Recycling: materials

SOURCE: Author

DIGEST: This bill makes numerous changes to the State Agency Buy Recycled Campaign (SABRC), as specified; substantially revises product categories; requires the Department of Resources Recycling and Recovery (CalRecycle) to update the list of products and minimum recycled content percentages, as specified; requires the Department of General Services (DGS) to maintain procedures for complying with SABRC, as specified; and, requires state agencies to purchase recycled products instead of nonrecycled products when certain conditions apply, as specified.

Senate Floor Amendments of 8/25/22 specify conditions for applying a 10% bid preference for nonrecycled products, make various changes to product definitions, and require DGS to maintain procedures for complying and continue to make products that meet minimum requirements available through contracts, as specified.

ANALYSIS:

Existing law:

1) Requires, under the SABRC, state agencies to ensure specific percentages of reportable purchases from prescribed product categories to be recycled products, as specified.

2) Requires each state agency, if fitness and quality are equal, to purchase recycled products instead of nonrecycled products whenever recycled products are available at the same or a lesser total cost than nonrecycled products, as specified.

This bill:

1) Requires DGS to maintain procedures for complying with the SABRC, including procedures for meeting the minimum recycled content requirements in state contracting as established by CalRecycle, and for compliance with CalRecycle's reporting requirements, as specified.

2) Specifies that the reportable recycled product categories purchased as part of service agreements are: printing and writing papers, soil amendments and soil toppings, erosion control products, paint, and carpet, as specified.

3) Requires a state agency to purchase recycled products instead of nonrecycled products if fitness and quality are equal, whenever recycled products are available at no more than 10% greater total cost than nonrecycled products, and specified circumstances exist.

4) Mandates CalReycle, with the concurrence of DGS and in consultation with impacted agencies, to update the list of identified products and update the minimum recycled content percentages, as determined to be appropriate, commencing January 1, 2026, and every three years thereafter.

5) Specifies that in updating the identified product lists, CalRecycle shall take into consideration the federal standards, as specified.

6) Requires CalRecycle and DGS to incorporate the updated list of products and minimum recycled content requirements into the State Contracting Manual, the Financial Information System for California (FI$Cal), and the financial system of any department not utilizing FI$Cal, as specified.

7) Requires CalRecycle to maintain an internet website with current SABRC products and minimum recycled content requirements, as specified.

8) Provides that in determining whether the minimum recycled content percentages should be updated, CalRecycle shall consider, at a minimum, specified factors.

9) Authorizes CalRecycle, with the concurrence of DGS, to set a higher minimum recycled content standard for white 20 pound printing and writing paper and white 20 pound printing and writing paper and white wove envelopes, either during the triennial review or at any other time after January 1, 2024.

10) Creates, effective January 1, 2023, and applicable until updated by CalRecycle and DGS, several new product categories with minimum content and recyclability requirements, as specified.

11) Requires state agency procurement and contracting officers, or their designees, to participate in annual mandatory training conducted by CalRecycle on the benefits of SABRC purchases.

12) Requires state agencies to report annually to CalRecycle its progress in meeting the recycled product purchasing requirements and, if necessary, an explanation of circumstances beyond the state agency's control that prevented the state agency from meeting the recycled product purchasing requirements for specified product categories using the SABRC report format provided by CalREcycle.

13) Provides that if a recycled product has special performance requirements necessary for the protection of public safety, the state agency may purchase that product made with virgin material, as specified.

14) Requires CalRecycle, upon request by a state agency, to offer advice and recommendations regarding products and situations in which a take-back requirement is appropriate.

15) Requires DGS and the Prison Industry Authority to prioritize the use of recycled content products in order to facilitate the easy procurement of SABRC-compliant products.

16) Requires DGS to make products that meet the SABRC postconsumer minimum percentage requirements available through statewide contracts, and provide information to state agencies regarding contracted products that meet these requirements.

17) Provides that the University of California is not subject to the SABRC procurement requirements; however requires the University of California to report if products purchased under SABRC meet the associated minimum recycled content requirements.

18) Specifies that recycled asphalt pavement shall contain a minimum of 25% reclaimed asphalt pavement by weight, as permitted by specifications and standards developed by the Department of Transportation (Caltrans) for recycled paving materials, as specified.

Comments

Purpose of the Bill. According to the author's office, "as the single largest purchaser of goods and contracts in California, the state can create stronger economic incentives for businesses to use more recycled material in their products. AB 661 will ensure that State of California contracts and purchases contain the same amounts of recycled materials as private businesses are currently required to have. With global temperature and ocean pollution rising at an alarming rate, urgent, effective action towards a truly Circular Economy is needed."

Commission on Recycling Markets and Curbside Recycling. AB 1583 (Eggman, Chapter 690, Statutes of 2019) required, by July 1, 2020, CalRecycle to convene a statewide Commission on Recycling Markets and Curbside Recycling (Commission) consisting of representatives of public agencies, private solid waste enterprises, and environmental organizations with expertise in recycling. AB 1583 required the Commission, by January 1, 2021, to issue policy recommendations to achieve specified recycled market development goals, the state's 75% recycling policy goal, and the state's organic waste recycling policy goals, and to identify products that are recyclable or compostable and regularly collected in curbside recycling programs.

The Commission issued its preliminary policy recommendations in December 2020. AB 2287 (Eggman, Chapter 281, Statutes of 2020) extended the Commission's deadline for its final recommendations until July 1, 2021, in order for public review and comment to be considered before the Commission produced its final recommendations. Both the Final Report and Preliminary Report are

published online at CalRecycle's website, as well as an updated December 20, 2021 Recommendations Report.

State Agency Buy Recycled Campaign. The SABRC is a joint effort between CalRecycle and DGS to implement state laws requiring state agencies and the Legislature to purchase recycled-content products (RCPs) and track those purchases. It complements the intent of the Integrated Waste Management Act which is indented to reduce the amount of waste going to California's landfills. An annual report detailing state agencies' annual RCP purchase is due to CalRecycle by October 31 of each year.

Under SABRC, if fitness and quality are equal, each state agency must purchase recycled products instead of nonrecycled products whenever recycled products are available at the same or lesser total cost than nonrecycled products. Each state agency must report annually to CalRecycle its progress in meeting the recycled product purchasing requirements. If DGS determines a requirement has not been met, DGS must, in consultation with CalRecycle, review purchasing policies and recommend immediate revisions to ensure the recycled product purchasing requirements are met. This bill, if fitness and quality are equal, requires state agencies to purchase recycled products instead of nonrecycled products whenever fitness and quality of the products are equal and recycled products are available at no more than 10% greater total cost than nonrecycled products, as specified. The bill includes protections to ensure the new 10% bid preference does not conflict with existing state bid preference programs.

Supporters argue that SABRC does not cover all products with recycling or greenhouse gas (GHG) implications, the minimum RCP percentages are outdated in some categories, and some categories include mixed materials that cause difficulties in reporting. This bill makes various revisions to SABRC requirements to further leverage procurement decisions made by state agencies regarding RCP products, in support of the state's broader waste reduction and climate change goals and to help bolster recycling commodity markets. Additionally, this bill mandates CalReycle, with the concurrence of DGS and in consultation with impacted agencies, to update the list of identified products and update the minimum RCPs, as determined to be appropriate, commencing January 1, 2026, and every three years thereafter.

Related/Prior Legislation

AB 1369 (Bennet, 2021), among other things, adds certain building materials to the list of eligible materials under the Buy Clean California Act, as specified. (Pending in the Senate Appropriations Committee)

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

According to the Senate Appropriations Committee, DGS anticipates:

- A one-time cost of up to $100,000 for the development and implementation of new policies related to SABRC.
- A one-time cost of up to $50,000 for the development of the annual training for state agency procurement and contracting officers from all state agencies.
- Ongoing costs, in the hundreds of thousands of dollars, for one additional staff (at the AGPA level) to aid state agencies in performing a more extensive analysis to determine if the quality and fitness of two products are equal. DGS notes that because a preference will be given to a recycled product over a nonrecycled product regardless of cost, a state agency will need the bidder to independently verify the recycled content of their goods; otherwise, the contract award could be subject to a protest.
- Unknown likely significant fiscal impact across all state agencies. DGS notes that expanding SABRC to service contracts will result in additional workload for state agencies, which will need to collect recycled content information from contractors and report it through FI$Cal. The impact of this workload will vary by department depending on the number of contracts entered into that will result in the state receiving a product subject to SABRC from the service provider.
- Unknown, increased fiscal impact from agencies paying more for goods and services that fall within the SABRC categories. More stringent recycled content standards will likely narrow the pool of eligible suppliers of goods. Additionally, the new burdens created for contractors providing a service to the state may result in some businesses opting not to bid on state contracts. Consequently, businesses that choose to bid on state contracts may face less competitive pressure to offer their goods and services at the lowest possible price. DGS notes that with state contracts for goods and services exceeding $10 billion annually, even the slightest increase in costs could have a major impact on the state.

The Department of Justice (DOJ) anticipates General Fund costs of approximately $2.9 million in Fiscal Year (FY) 2022-23, $5.6 million in FY 2023-24, $5.5 million in FY 2024-25, and $5.4 million ongoing. Costs include workload related to identifying DOJ contracts and processes that need to be changed, develop and implement updated processes, update required DOJ forms, provide continuous research of products and vendors that will be able to meet DOJ's needs, and review and ensure procurements align with mandated requirements. Other costs include increased procurement expenses from buying recycled paper products (an annual

increase of approximately $15,000) and recycled IT products (an annual increase of approximately $4.3 million).

CalRecycle anticipates costs to adjust the recycled content standards administratively on a triennial basis and other related workload to be absorbable within existing resources.

SUPPORT: (Verified 8/25/22)

California Alliance of Nurses for Healthy Environments
California Environmental Voters
California League of Conservation Voters
California Metals Coalition
California Product Stewardship Council
Californians Against Waste
City of Los Angeles
Colorado Medical Waste
Ecology Center
Marin Sanitary Service
National Stewardship Action Council
Northern California Recycling Association
RethinkWaste
Sea Hugger
Small Business California
Strategic Materials
Surfrider Foundation
XT Green, Inc.
Zanker Recycling

OPPOSITION: (Verified 8/25/22)

American Chemistry Council
American Forest & Paper Association
California Manufacturers & Technology Association

ARGUMENTS IN SUPPORT: Supporters of the bill write that, "AB 661 makes much needed improvements to SABRC, including removing the requirement to purchase only when available at the same or lesser total cost than non-recycled products, requiring annual training, revising product categories and minimum content percentages and recyclability requirements update every three years, and clarifying that SABRC includes service contracts where the contractor is

purchasing reportable recycled products in the performance of the service contract."

ARGUMENTS IN OPPOSITION: In opposition to the bill, the California Manufacturers & Technology Association (CMTA) writes in opposition to this bill that, "AB 661 directly conflicts with standards established by the United States Environmental Protection Agency for certain product categories. It is not feasible for manufacturers to design products to meet multiple recycled content requirements established by states and other jurisdictions. It is also our understanding that federal procurement and recycled content requirements are currently under review, and AB 661 may be premature. AB 661 should clarify its intention to align with current and future federal standards."

ASSEMBLY FLOOR: 56-19, 1/31/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Mayes, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Nguyen

Prepared by: Brian Duke / G.O. / (916) 651-1530
8/26/22 15:32:06

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

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THIRD READING

Bill No: AB 682
Author: Bloom (D)
Amended: 8/24/22 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 7-0, 6/13/22
AYES: Wiener, Caballero, Cortese, McGuire, Skinner, Umberg, Wieckowski
NO VOTE RECORDED: Bates, Ochoa Bogh

SENATE GOVERNANCE & FIN. COMMITTEE: 4-1, 6/22/22
AYES: Caballero, Durazo, Hertzberg, Wiener
NOES: Nielsen

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 52-8, 1/27/22 - See last page for vote

SUBJECT: Planning and zoning: density bonuses: shared housing buildings

SOURCE: CityLab UCLA

DIGEST: This bill grants a density bonus for shared housing developments, as specified.

Senate Floor Amendments of 8/24/22 resolve chaptering conflicts with AB 2334 (Wicks).

Senate Floor Amendments of 8/22/22 make technical and clarifying changes.

ANALYSIS:

Existing law:

1) Requires each city and county to submit an annual progress report (APR), annually by April 1, to the legislative body, the Office of Planning and

Research, and the Department of Housing and Community Development that includes data points and updates on housing plans and approvals.

2) Requires each city and county to adopt an ordinance that specifies how it will implement state Density Bonus Law (DBL). Requires cities and counties to grant a density bonus when an applicant for a housing development of five or more units seeks and agrees to construct a project that will contain at least one of the following:

   a) 10% of the total units of a housing development for lower income households;

   b) 5% of the total units of a housing development for very low-income households;

   c) A senior citizen housing development or mobile home park;

   d) 10% of the units in a CID for moderate-income households;

   e) 10% of the total units for transitional foster youth, disabled veterans, or homeless persons; or

   f) 20% of the total units for lower-income students in a student housing development.

   g) 100% of the units of a housing development for lower-income households, except that 20% of units may be for moderate-income households.

3) Requires a city or county to allow an increase in density on a sliding scale from 20% to 50%, depending on the percentage of units affordable to low- and very low-income households, over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan. Requires the increase in density on a sliding scale for moderate-income for-sale developments from 5% to 50% over the otherwise allowable residential density.

4) Provides that upon the request of a developer, a city or county shall not require a vehicular parking ratio, inclusive of disabled and guest parking, that meets the following ratios:

   a) Zero to one bedroom — one onsite parking space.

   b) Two to three bedrooms — one and one-half onsite parking spaces.

c) Four and more bedrooms — two and one-half parking spaces.

5) Provides, notwithstanding 4) above, that a city or county shall not impose a parking ratio higher than 0.5 spaces per unit, nor any parking standards, for a project that is:

   a) Located within one-half mile of a major transit stop and the residents have unobstructed access to the transit stop; or

   b) A for-rent housing development for individuals who are 62 years or older and the residents have either access to paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

6) Provides, notwithstanding 4) and 5) above, that a city or county shall not impose any minimum parking requirement on a housing development that consists solely of rental units for lower income families and the is either a special needs or a supportive housing development.

7) Provides that the applicant shall receive the following number of incentives or concessions:

   a) One incentive or concession for projects that include at least 10% of the total units for moderate-income households, 10% of the total units for lower-income households, or at least 5% for very low-income households.

   b) Two incentives or concessions for projects that include at least 20% of the total units for moderate-income households, 17% of the total units for lower income households, or least 10% for very low income households.

   c) Three incentives or concessions for projects that include at least 30% of the total units for moderate-income households 24% of the total units for lower-income households, or at least 15% for very low-income households.

   d) Four incentives or concessions for projects where 100% of the units of a housing development for lower-income households, except that 20% of units may be for moderate-income households, as well as a height increase up to 33 feet if the project is located within one-half mile of a transit stop.

This bill:

1) Defines “unit” as one cohousing unit and its prorate share of associated common area facilities.

2) Defines "shared housing building" as a residential or mixed-use structure with five or more shared units and one or more common kitchens and dining areas designed for permanent residence of more than 30 days be its tenants. The kitchens and dining areas within the shared housing building shall be able to accommodate housing.

3) Defines "shared housing unit" as one or more habitable rooms, not contained within another dwelling unit, that includes a bathroom, sink, refrigerator, and microwave, is used for permanent residence, that meets the "minimum room area" definition of the California Residential Code, and complies with the definition of "guestroom" pursuant to the California Residential Code.

4) Requires cities and counties to grant a density bonus when an applicant for a housing development of five or more units seeks and agrees to construct a shared housing building that will contain either the following:

   a) 10% of the units of a shared housing building for lower income households.

   b) 5% of the units of a shared housing building for very low-income households.

5) Provides that, when an applicant proposes to construct a housing development that conforms to the requirements of 4) above, the local government shall not require any minimum unit size requirements or minimum bedroom requirements.

6) Provides that a shared housing building may include other dwelling units that are not shared housing units, provided that those units do not occupy more than 25% of the floor area of the shared housing building. A shared housing building may include 100% shared housing units.

7) Provides that a shared housing building may include incidental commercial uses, provided that those commercial uses are otherwise allowable and are located only on the ground floor or the level of the shared housing building closest to the street or sidewalk of the shared housing building.

8) Resolves chaptering conflicts with AB 2334 (Wicks).

Background

Given California's high land and construction costs for housing, it is extremely difficult for the private market to provide housing units that are affordable to low- and even moderate-income households. Public subsidy is often required to fill the

financial gap on affordable units. DBL allows public entities to reduce or even eliminate subsidies for a particular project by allowing a developer to include more total units in a project than would otherwise be allowed by the local zoning ordinance, in exchange for affordable units. Allowing more total units permits the developer to spread the cost of the affordable units more broadly over the market-rate units. The idea of DBL is to cover at least some of the financing gap of affordable housing with regulatory incentives, rather than additional subsidy.

Under existing law, if a developer proposes to construct a housing development with a specified percentage of affordable units, the city or county must provide all of the following benefits: a density bonus; incentives or concessions (hereafter referred to as incentives); waiver of any development standards that prevent the developer from utilizing the density bonus or incentives; and reduced parking standards.

To qualify for benefits under DBL, a proposed housing development must contain a minimum percentage of affordable housing. If one of these options is met, a developer is entitled to a base increase in density for the project as a whole (referred to as a density bonus) and one regulatory incentive. Under DBL, a developer is entitled to a sliding scale of density bonuses, up to a maximum of 50% of the maximum zoning density and up to four incentives, as specified, depending on the percentage of affordable housing included in the project. At the low end, a developer receives 20% additional density for 5% very low-income units and 20% density for 10% low-income units. The maximum additional density permitted is 50%, in exchange for 15% very low-income units and 24% low-income units. The developer also negotiates additional incentives, reduced parking, and design standard waivers, with the local government. This helps developers reduce costs while enabling a local government to determine what changes make the most sense for that site and community.

Comments

1) *Student housing density bonuses*. In 2018, the Legislature created a density bonus incentive program for student housing developments (ie dorm-style housing) in order to facilitate their construction. That bill, SB 1227 (Skinner, Chapter 937, Statutes of 2018) allowed a developer to seek and receive a 35% increase in density if they agree to restrict 20% of the units in the development to low-income students, with a priority for homeless students. To qualify to live in lower income units students would be required to provide proof that their household income qualifies them for a Cal Grant. The developer is also entitled to one concession and incentive.

This bill incentivizes the development of shared housing development, which contemplate any unit size that includes a bathroom, sink, refrigerator, and microwave, with a common area. These projects are entitled to unlimited so long as 10% low income or 5% very low-income units.

2) *So are these legal?* The California Building Code defines "efficiency dwelling unit" as a unit with not less than 220 square feet and an additional 100 square feet for each additional occupant in excess of two occupants. These unit types must also have a separate bathroom and specified kitchen appliances. While there is no specific mandate, these standards are intended to apply to detached units. To that end, depending on the project, it is not clear that the projects incentivized by this bill will meet existing building standards.

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

SUPPORT: (Verified 8/22/22)

CityLab UCLA (source)
Abundant Housing LA
American Planning Association, California Chapter
California Apartment Association
City of Santa Monica
East Bay for Everyone
People Assisting the Homeless

OPPOSITION: (Verified 8/22/22)

City of Lafayette

ARGUMENTS IN SUPPORT: According to the author, "Despite its potential, California's other major cities and major developers have been slow to embrace co-housing buildings. Stringent density requirements limit the number of units developers can build on an already costly parcel of land. Parking requirements add additional construction costs that can make co-housing financially infeasible, especially for projects that aim to house more than 100 units. AB 682 aims to ease the roadblocks that have long stifled the construction of these affordable housing units. By expanding the state's density bonus law to incentivize co-housing apartments, AB 682 will provide more affordable units without the need for public subsidies. As the state grapples with the housing shortage, AB 682 will help diversify the housing stock, offering both affordable housing and the option for communal living."

ARGUMENTS IN OPPOSITION: The City of Lafayette is opposed because the units contemplated by this bill may be considered "group quarters" and thus, ineligible to be counted towards a local governments regional housing needs allocation targets.

ASSEMBLY FLOOR: 52-8, 1/27/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Bryan, Burke, Calderon, Cervantes, Cooley, Cooper, Cunningham, Daly, Friedman, Gabriel, Cristina Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Voepel, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Choi, Davies, Gallagher, Mathis, Nguyen, Seyarto, Smith
NO VOTE RECORDED: Boerner Horvath, Mia Bonta, Carrillo, Chen, Megan Dahle, Flora, Fong, Eduardo Garcia, Kiley, Lackey, Maienschein, Mayes, O'Donnell, Patterson, Valladares, Waldron

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
8/26/22 15:32:06

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

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THIRD READING

Bill No: AB 719
Author: Committee on Agriculture
Amended: 8/24/22 in Senate
Vote: 21

SENATE AGRICULTURE COMMITTEE: 5-0, 7/1/21
AYES: Borgeas, Hurtado, Caballero, Eggman, Glazer

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 78-0, 6/1/21 - See last page for vote

SUBJECT: Bees

SOURCE: California State Beekeepers Association

DIGEST: This bill updates portions of the Apiary Protection Act, primarily by changing the makeup of the Apiary Advisory Board, revising definitions, and updating provisions.

Senate Floor Amendments of 8/24/22 increase the number of board members from five to seven and authorize the secretary of the California Department of Food and Agriculture, in consultation with the Apiary Board, to identify a representative from the California Agricultural Commissioners and Sealers Association and a member of the industry that represents pollinated crops to serve as subject matter experts at board meetings.

ANALYSIS:

Existing law:

1) Creates the Apiary Board within the California Department of Food and Agriculture (CDFA). The board is required to consist of five members that are appointed by the secretary of CDFA and are registered beekeepers that reside

in California. Existing law also allows the secretary of CDFA (secretary) to appoint an additional public member.

2) Defines, for purposes of the Apiary Protection Act, "pest" to mean American foulbrood or any other infectious disease, parasite, pest, or hereditary disease that affects bees that the secretary declares by regulation detrimental to the welfare of the bee industry.

3) Requires an owner or a person in charge or possession of an apiary to, among other things, register the number of colonies in each apiary and the location of each apiary; and abate an infestation of an apiary upon finding an infestation to be present or receiving notice of an infestation.

4) Authorizes any person to transport any contaminated hive, together with its contents, or any contaminated comb, including any frame associated with it, to a suitable place for burning or to a licensed wax salvage plant, as specified.

5) Specifies no person shall move or transport any bees, comb, appliances, or colonies within the state that are diseased.

6) Authorizes an inspector, in a summary manner, to destroy where required, any and all diseased colonies, bees, combs, or hives that are unlawfully moved within the state wherever they may be found.

7) Requires a beekeeper to report to the agricultural commissioner of the county in which the beekeeper's apiary is located, on a form approved by the secretary, each location of apiaries for which notification of pesticide usage is sought.

8) Requires each request, except as specified, to be mailed within 72 hours before locating an apiary, where feasible, but in no event later than 72 hours after locating an apiary.

9) Provides that no person shall import or transport into the state any comb, bees on comb, queen bees, package bees, bee semen, or any used hive or used appliance, unless each separate load, lot, or shipment is accompanied by a valid certificate, and filed in a form and in the manner as set forth by the secretary, and unless the certificate is delivered to the agricultural commissioner of the county of destination or to the secretary, if there is no agricultural commissioner in the county, within 72 hours after the arrival of the load, lot, or shipment.

10) Requires the colony strength of a bee colony to be certified after inspection on the basis of the number of active frames of bees or the square inches of brood per colony, or both, using a sampling system approved by the secretary.

11) Requires the inspector, to the greatest extent possible, to endeavor to give the beekeeper advance notice of the scheduled date of the inspection.

12) Prescribes various abatement methods for diseased colonies.

13) Authorizes the secretary, in cooperation with the Regents of the University of California, to approve programs statewide to train, on a voluntary basis, beekeepers in the maintenance of colonies free of Africanized honey bees.

This bill:

1) Increases the number of board members from five to seven.

2) Requires the secretary to appoint six board members who are registered beekeepers who live in California and are representative of the industry functions of queen breeding, pollination, and honey production.

3) Authorizes the secretary, in consultation with the Apiary Board, to identify a representative from the California Agricultural Commissioners and Sealers Association and a member of the industry that represents pollinated crops to serve as subject matter experts at meetings.

4) Defines “pest” to include American foulbrood or any other infectious disease, parasite, pest, or hereditary disease that affects bees that the secretary declares by regulation, in consultation with the association representing the beekeeping industry and the Apiary Board to be a pest that is detrimental to the welfare of the bee industry.

5) Defines “infected,” “infested,” “contaminated,” or “diseased” to include a viable stage of the life cycle of a “pest,” as defined in Section 29009 Food and Agricultural Code, that can be demonstrated to exist on or within the colony population or on hives, comb, or any appliances associated with beekeeping operations.

6) Defines “inspector” to mean any person who has received a certificate issued by the department with curriculum approved by the secretary and who is authorized to enforce this bill.

7) Defines "broker" to mean a person or entity that receives a monetary profit from the management of beehives, hive equipment, or honey bees that they do not own but have control of through a private or public agreement between one or more parties.

8) Authorizes any person under the supervision of a local county agricultural commissioner, except when prohibited by other provisions of this bill, to transport any contaminated hive, together with its contents, or any contaminated comb, including any frame associated with it, to a suitable place for disposal or to a licensed wax salvage plant, as specified (Pursuant to Food and Agricultural Code, Section 29208).

9) Authorizes any person under the supervision of the local county agricultural commissioner to transport contaminated comb, including any frame associated with it, to a suitable place for burning or disposal or to a wax salvage plant, as specified (Pursuant to Food and Agriculture, Section 29208).

10) Authorizes an inspector to destroy any and all colonies, bees, combs, or hives that contain pests that are unlawfully moved within the state to wherever they may be found.

11) Authorizes electronic submission of beekeeper reports to the agricultural commissioner of the county in which the beekeeper's apiary is located for which notification of pesticide usage is sought.

12) Authorizes operations to abate diseased colonies to be performed by any authorized hazardous waste facility.

13) Authorizes the secretary or the county agricultural commissioner to impose an administrative civil penalty on a person who violates specified provisions of law relating to honey production.

14) Authorizes the secretary, in consultation with the board, to approve programs statewide to train, on a voluntary basis, beekeepers, inspectors, or county agricultural commissioners in contemporary and geographically relevant colony management, including, but not limited to, the maintenance of colonies free from Africanized honey bees.

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

According to the Senate Appropriations Committee, CDFA indicates that it would incur costs of $171,000 in 2021-22, and $132,000 annually thereafter, to implement the provisions of this bill (General Fund). This bill does not currently

grant the department authority to adjust assessments and fees to cover these increased costs.

SUPPORT: (Verified 8/25/22)

California State Beekeepers Association (source)

OPPOSITION: (Verified 8/25/22)

None received

ARGUMENTS IN SUPPORT: According to the author, "This bill updates and changes a portion of the Apiary Protection Act (APA), primarily changing the makeup of the California Department of Food and Agriculture's (CDFA) Apiary Advisory board, revising definitions, and updating provisions to reflect current technology and industry best practices."

The California State Beekeepers Association, sponsor of this bill, writes in support stating the bill is necessary to update portions of the Apiary Protection Act to bring "critically necessary clarity and consistency to the entire code section."

ASSEMBLY FLOOR: 78-0, 6/1/21
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Arambula

Prepared by: Reichel Everhart / AGRI. /(916) 651-1508
8/26/22 15:32:07

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

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THIRD READING

Bill No: AB 738
Author: Nguyen (R)
Amended: 6/2/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 9-0, 6/1/22
AYES: Pan, Melendez, Gonzalez, Grove, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Eggman, Hurtado

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 61-0, 1/27/22 (Consent) - See last page for vote

SUBJECT: Community mental health services: mental health boards

SOURCE: Author

DIGEST: This bill requires at least one member of a mental health board to be a veteran or veteran advocate, as specified.

ANALYSIS:

Existing law:

1) Establishes the Bronzan-McCorquodale Act (BMA) to organize and finance community mental health (MH) services for those with MH disorders in every county through locally administered and controlled community MH programs. [WIC §5600, et seq.]

2) Specifies that community MH services should be organized to provide an array of treatment options in the following areas, to the extent resources are available: precrisis and crisis services; comprehensive evaluation and assessment; individual service plans; medication education and management; case management; 24-hour treatment services; rehabilitation and support services;

vocational rehabilitation; residential services; services for the homeless; and group services. [WIC §5600.4]

3) Requires each community MH service to have a MH board (MHB) consisting of 10 to 15 members, depending on the preference of the county, appointed by the governing board, with added requirements for counties depending on the size of its population and the size of its board of supervisors. Requires 50% of the MHB membership to be consumers, or the parents, spouses, siblings, or adult children of consumers, who are receiving or have received mental health services, and at least 20% of the total membership to be consumers, and at least 20% to be families of consumers. Encourages counties to appoint individuals to a MHB with specified knowledge and experience, such as those who engage with individuals living with mental illness in the course of daily operations. [WIC §5604]

4) Requires a local MHB to do the following:
   a) Review and evaluate the community's public MH needs, services, facilities, and special problems;
   b) Review any county agreements, as specified;
   c) Advise the governing body and local MH director as to any aspect of the local MH program;
   d) Review and approve procedures used to ensure citizen and professional involvement in all stages of the planning process, a specified;
   e) Submit an annual report to the governing body on the needs and performance of the county's MH system;
   f) Review and make recommendations on applicants for the appointment of a local director of MH services, and be included in the selection process prior to the vote of the governing body;
   g) Review and comment on the county's performance outcome data and communicate its findings to the California Behavioral Health Planning Council;
   h) Perform any other duties transferred by the governing body; and,
   i) Assess the impact of the realignment of services from the state to the county on services delivered to clients and on the local community.

5) Establishes the Mental Health Services Act (MHSA), enacted by voters in 2004 as Proposition 63, to provide funds to counties to expand services, develop innovative programs, and integrate service plans for mentally ill children, adults, and seniors through a 1% income tax on personal income above $1 million. [WIC §5890, et seq.]

6) Requires each county MH program (CMHP) to prepare and submit a three-year program and expenditure plan for MHSA funds, with annual updates, adopted by the county board of supervisors, to the Mental Health Services Oversight and Accountability Commission and the Department of Health Care Services (DHCS) within 30 days after adoption. [WIC §5847]

7) Requires a MHB to conduct a public hearing on the draft MHSA three-year plan and annual updates at the close of the 30-day comment period, as specified. Requires each adopted three-year plan and update to include any substantive written recommendations for revision, and a summary and analysis of the recommended revisions. Requires the MHB to review the adopted plan or update, and to make recommendations to the county MH department for revisions. [WIC §5848]

8) Requires specified MHSA allocations to counties to include funding for annual planning costs, including funds for county MH programs to pay for various costs of consumers, family members, and other stakeholders to participate in the planning process and for the planning and implementation required for private provider contracts to be significantly expanded to provide additional services. [WIC §5604.3, 5892]

This bill:

1) Requires at least one member of an MHB to be a veteran or veteran advocate in counties with a population of 100,000 or more. Requires counties with a population of fewer than 100,000 to give a strong preference to appointing at least one member of an MHB who is a veteran or veteran advocate.

2) Requires a county to notify its county veterans service officer about vacancies on the MHB, if a county has a veterans service officer.

Background

AB 1288 (Bronzan, Chapter 89, Statutes of 1991), known as the BMA, significantly changed community MH services, with more of the focus and responsibility passing to the counties, including the requirements for MHBs. The MHBs remain the primary vehicle for residents to have oversight of the administration and provision of the services funded by their tax dollars. The composition of MHBs are required to represent the populations and stakeholders interested in MH services. The creation of the MHBs was intended to provide community input into the development and adoption of community MH service

plans and to act as a checks and balances to plans that are developed by the local MH/behavioral health (BH) departments and approved by the county boards of supervisors. For decades the MHBs existed throughout the state, yet according to reports from members of MHBs, they were relegated to the background, input was ignored, and some work being done by the MHBs was being censored. AB 1352 (Waldron, Chapter 460, Statutes of 2019) made various updates to law, including authorizing MHBs to make their recommendations directly to the governing body rather than to the local MH/BH agencies. It further required the local MH/BH agency, as applicable, to provide an annual report of written explanations to the local governing body and DHCS for any substantive recommendations made by the local MHB that are not included in the CMHP's final MHSA three-year plan or update, thus ensuring the MHB's input into the MHSA plan are fully vetted and considered prior to final adoption.

Veterans and mental health. According to the federal Substance Abuse and Mental Health Services Administration's (SAMHSA) website, there are an estimated 23.4 million veterans in the United States, and about 2.2 million military service members and 3.1 million immediate family members. A 2017 Legislative Analyst's Office report estimates about 1.8 million veterans live in California, more than in any other state. The demanding environments of military life and experiences of combat, during which many veterans experience psychological distress, can be further complicated by substance use and related disorders. Many service members face such critical issues as trauma, suicide, homelessness, and/or involvement with the criminal justice system. SAMHSA states that although active duty troops and their families are eligible for care from the U.S. Department of Defense, a significant number choose not to access those services due to fear of discrimination or the harm receiving treatment for behavioral health issues may have on their military career or that of their spouse.

Comments

Author's statement. According to the author, the COVID-19 pandemic has had an undeniable impact on the lives of all Californians. A recent study by the Centers for Disease Control and Prevention and a survey conducted by the U.S. Census Bureau have shown a 31% increase from the previous year in people who have reported symptoms or feelings of anxiety and depression. Now is the time to ensure that people who need help are able to get the resources and assistance they need. This bill requires counties to appoint a veteran or veteran advocate to a local public MHB. The addition of a veteran or veteran advocate to public MHBs will help ensure that veterans are informed of and have access to available local mental health resources.

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

SUPPORT: (Verified 8/8/22)

American Legion-Department of California
California Association of County Veterans Service Officers
California State Association of Psychiatrists
California State Commanders Veterans Council
Depression and Bipolar Support Alliance
Military Officers Association of America-California Council of Chapters

OPPOSITION: (Verified 8/8/22)

California State Association of Local Behavioral Health Boards and Commissions

ARGUMENTS IN SUPPORT: The California State Association of Psychiatrists (CSAP) states that a recent survey revealed data showing a widening disparity in veterans receiving mental health care resources or services. As reported, approximately 85% of veterans reported some form of a substance use disorder, 53% reported having general mental illness or condition, and 26% reported having a severe mental illness and were receiving no treatments or care. Between 2008 and 2019, there was a notable spike in severe mental illness reported in veterans between the ages of 26-49. CSAP states that this bill will help ensure that our veterans are part of the conversation on mental health and wellness.

ARGUMENTS IN OPPOSITION: The Governing Board of the California Association of Local Behavioral Health Boards and Commissions (CALBHB/C) states that members of MHBs are volunteers who are appointed by local governing bodies (usually boards of supervisors), and MHBs already have specific membership requirements in regard to number of members and required percentages of individuals with lived experience, their family members, and the requirement for one board of supervisor member. CALBHB/C is opposed to this bill unless it is amended to instead include veterans or a veteran advocate in the section of current law that encourages counties to appoint specified individuals to MHBs.

ASSEMBLY FLOOR: 61-0, 1/27/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Cervantes, Choi, Cooley, Cooper, Cunningham, Daly, Davies, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Gipson, Grayson, Holden, Jones-Sawyer, Kalra, Kiley, Lackey,

Lee, Levine, Low, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Ward, Wicks, Wood, Rendon

NO VOTE RECORDED: Mia Bonta, Carrillo, Chen, Megan Dahle, Flora, Eduardo Garcia, Gray, Irwin, Maienschein, Mayes, Blanca Rubio, Villapudua, Voepel, Waldron, Akilah Weber

Prepared by: Reyes Diaz / HEALTH / (916) 651-4111
8/10/22 14:21:53

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

SENATE RULES COMMITTEE
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THIRD READING

Bill No: AB 740
Author: McCarty (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 6-0, 6/1/22
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, Pan
NO VOTE RECORDED: McGuire

SENATE JUDICIARY COMMITTEE: 11-0, 6/14/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

ASSEMBLY FLOOR: 65-0, 1/24/22 - See last page for vote

SUBJECT: Foster youth: suspension and expulsion

SOURCE: Black Minds Matter Coalition
Children's Advocacy Institute
Children's Law Center
Legal Advocates for Children and Youth

DIGEST: This bill requires a Local Education Agency (LEA) to send a notification to the foster child's attorney, county social worker, and educational rights, or tribal social worker, if that child is an Indian child as specified in Welfare and Institutions Code when an involuntary transfer to a continuation school, suspension, or expulsion proceeding occurs.

Senate Floor Amendments of 8/25/22 make technical changes.

ANALYSIS:

Existing law:

Education of Pupils in Foster Care and Pupils Who Are Homeless

1) Requires each local educational agency to designate a staff person as the educational liaison for foster children (Education Code § 48853.5 (c))

2) Requires an educational liaison shall notify a foster child's attorney and appropriate representative of the county child welfare agency of pending expulsion proceedings if the decision to recommend expulsion is a discretionary act; pending proceedings to extend a suspension until an expulsion decision is rendered if the decision to recommend expulsion is a discretionary act; and if the foster child is an individual with exceptional needs, pending manifestation determinations if the local educational agency has proposed a change in placement due to an act for which the decision to recommend expulsion is at the discretion of the principal or the district superintendent of schools. (EC § 48853.5 (d))

3) Requires an LEA to, prior to making a recommendation to move a foster child from their school of origin, to provide the foster child and the person holding the right to make educational decisions for the foster child with a written explanation stating the basis for the recommendation and how it serves the foster child's best interests. (EC § 48843.5)

Suspension or Expulsion

4) Requires a school employee to notify the pupil's parent or guardian when a pupil is assigned to a supervised suspension classroom, and if the assignment is for longer than one class period, the employee must notify the parent or guardian in writing. (EC § 48911.1)

5) Specifies a pupil shall not be suspended from school or recommended for expulsion unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed specified acts in subdivision (a) – (r). (EC § 48900)

6) Requires the principal or superintendent of schools to recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds unless it is determined that the expulsion

should not be recommended under the circumstances or that an alternative means enumerated in subdivision (a) – (r). (EC § 48915)

7) Authorizes the principal of a school or the district superintendent to suspend a pupil from a school for any of the reasons identified above for no more than five consecutive days, and requires that suspension be preceded by an informal conference where the pupil must be informed of the reasons for the disciplinary action, including other means of correction that were attempted before the suspension, and the evidence against them, and must be given the opportunity to present their own version and evidence in their defense. Also requires a school employee to make a reasonable effort to contact the pupil's parent or guardian in person or by telephone, and if the pupil is suspended from school, requires that the parent or guardian be notified in writing. (EC § 48911)

8) Requires that a suspension only be imposed when other means of correction fail to bring about proper conduct. Specifies that other means of correction enumerated in subdivision (a) – (h). may include, but are not limited to, the following: (EC § 48900.5)

This bill requires an LEA to send a notification to the foster child's attorney, county social worker, and educational rights, or tribal social worker, if that child is an Indian child as specified in Welfare and Institutions Code when an involuntary transfer to a continuation school, suspension, or expulsion proceeding occurs. Specifically, this bill:

1) Requires a school district to provide written notice to a foster child's attorney, county social worker, and educational rights, or tribal social worker, if that child is an Indian child as specified in Welfare and Institutions Code of a decision to transfer the foster child to a continuation school, stating the facts and reasons for the decision, informing them of the opportunity to request a meeting with the district prior to a student being transferred, and indicating whether the decision is subject to periodic review and the periodic review procedure.

2) Requires that the foster child's attorney, county social worker, and educational rights holder, or tribal social worker, if that child is an Indian child as specified in Welfare and Institutions Code be informed of the specific facts and reasons for the proposed transfer, and have the opportunity to inspect all documents

relied upon, question any evidence and witnesses presented, and present evidence on the pupil's behalf.

3) Requires that an involuntary transfer to a continuation school not extend beyond the end of the semester following the acts leading to the involuntary transfer occurred unless the school district adopts a procedure for yearly review of the involuntary transfer at the request of the foster child's attorney or county social worker.

4) Repeals existing law regarding notices requirements of the State Department of Education and LEAs regarding notices and staff designations and specifies that a foster child's educational rights holder, attorney, and county social worker and a Indian child's tribal social worker and, if applicable, county social worker shall have the same rights a parent or guardian of a child has to receive a suspension notice, expulsion notice, manifestation determination notice, involuntary transfer notice, and other documents and related information.

5) Requires that a foster child's attorney, county social worker, and educational rights holder, or tribal social worker, if that child is an Indian child as specified in Welfare and Institutions Code be notified of the pupil's right to a conference if a foster child is suspended without the opportunity for an informal conference, as specified.

6) Requires that a school employee make a reasonable effort to contact a foster child's attorney, county social worker, and educational rights, or tribal social worker, if that child is an Indian child as specified in Welfare and Institutions Code in person, by email, or by telephone at the time of the suspension of the foster child, and if the foster child is suspended from school, requires the school to notify the foster child's attorney and county social worker in writing.

7) Requires the foster child's attorney, county social worker, and educational rights, or tribal social worker, if that child is an Indian child as specified in Welfare and Institutions Code to respond without delay to a request from school officials to attend a conference regarding the foster child's behavior.

8) Prohibits penalties on the pupil if the foster child's attorney, county social worker, and educational rights, or tribal social worker, if that child is an Indian child as specified in Welfare and Institutions Code fail to attend a conference with school officials, and specifies that reinstatement of the suspended pupil

not be contingent upon attendance of the attorney or social worker at the conference.

9) Requires that a foster child's attorney, county social worker, and educational rights, or tribal social worker, if that child is an Indian child as specified in Welfare and Institutions Code be notified by a school employee in person, by email, or by telephone if a foster child is assigned to a supervised suspension classroom and that if the suspension is for longer than one class period, the notification must be in writing.

10) Requires an LEA to invite the foster child's attorney, county social worker, and educational rights, or tribal social worker, if that child is an Indian child as specified in Welfare and Institutions Code participate in the individualized education program team meeting that makes a manifestation determination, as specified if an LEA is proposing a change of placement for a foster child with exceptional needs.

11) Requires, rather than authorizes, a school district to provide notice of an expulsion hearing to a foster child's attorney and a representative of the county child welfare agency at least 10 days before an expulsion hearing, and instead requires such notification to the attorney and county social worker at least 10 days before the hearing.

12) Makes other various technical changes

Comments

1) *Need for the bill*. According to the author "Students in foster care receive lower grades, are less likely to graduate high school or attend college, have higher rates of chronic absenteeism, and are suspended more often than their non-foster peers. In California, students in foster care are suspended at four times the statewide average rate. In Sacramento County, one in every five students in foster care was suspended at least once in the 2018-19 academic year. When broken down by student demographic, this disparity is even starker: the suspension for Black foster students is more than six times the statewide average. Research shows a strong connection between high suspension rates, poor academic achievement, and high school dropout rates. The disproportionate suspension of students in foster care fuels a cycle of negative outcomes for these vulnerable students. Foster youth faced additional challenges during the COVID-19 pandemic including lack of access to technology and support needed for distance learning. Studies predict that the

pandemic will widen the significant achievement gap between foster kids and their peers even further. AB 740 protects the educational rights of students in foster care by requiring their state-appointed attorney to be notified of disciplinary proceedings in order to ensure the student has a qualified person advocating on their behalf."

2) *California Department of Education.* In recent years, there have been other statutory provisions designed to limit the use of suspensions and promote alternatives to suspension. These provisions aim to address the root causes of the student's behavior and to improve academic outcomes:

   a) *Minimize Suspension for Attendance Issues:* It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a pupil who is truant, tardy, or otherwise absent from school activities.

   b) *Instead of Suspension, Support:* A superintendent of the school district or principal is encouraged to provide alternatives to suspension or expulsion, using a research-based framework with strategies that improve behavioral and academic outcomes, that are age-appropriate and designed to address and correct the pupil's misbehavior.

      The state has also established a Multi-Tiered System of Supports, which includes restorative justice practices, trauma-informed practices, social and emotional learning, and schoolwide positive behavior interventions and support, that may be used to help students gain critical social and emotional skills, receive support to help transform trauma-related responses, understand the impact of their actions, and develop meaningful methods for repairing harm to the school community.

   c) *Suspension as a Last Resort:* Suspension shall be imposed only when other means of correction fail to bring about proper conduct and then continues to provide an extensive list of suggested positive, non-exclusionary alternative practices. Other means of correction may include additional academic supports, to ensure, for example, that instruction is academically appropriate, culturally relevant, and engaging for students at different academic levels and with diverse backgrounds.

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

According to the Senate Appropriations Committee, this bill could potentially result in reimbursable state mandated costs in the tens of thousands of dollars each

year for LEAs to track the involuntary transfers, suspensions, and expulsions, provide the notifications, and comply with the bill's other requirements. To the extent this requirement takes each LEA one to two hours to complete these activities each year at a rate of $50 per hour, statewide costs would be $50,000 to $100,000. This amount could be higher or lower depending on the exact number of these occurrences and length of time to complete the bill's requirements. To the extent the Commission on State Mandates determines this to be a reimbursable state mandate, this could create a pressure to increase the K-12 mandates block grant to account for this mandate. (Proposition 98 General Fund)

SUPPORT: (Verified 8/24/22)

Alliance For Children's Rights
American Academy of Pediatrics
Black Minds Matter Coalition
California Advocacy Institute
California Alliance of Child and Family Services
California Association of Private Special Education Schools
California Federation of Teachers, AFL-CIO
California State NAACP
California State PTA
California Tribal Families Coalition
Center for Public Interest Law/Children's Advocacy Institute/University of San Diego
Children's Law Center of California
Foster Care Counts
Greater Sacramento Urban League
Improve your Tomorrow, Inc.
Law Foundation of Silicon Valley
Los Angeles County Office of Educations
National Association of Social Workers, California Chapter
The Center At Sierra Health Foundation

OPPOSITION: (Verified 8/24/22)

None received

ARGUMENTS IN SUPPORT: According to the California Alliance of Child and Family Services, "The California Alliance is an association of approximately 160 nonprofit foster care and children's mental health providers and our membership is committed to supporting the academic achievement of foster youth.

AB 740 protects the educational rights of students in foster care by requiring their state-appointed attorney to be notified of disciplinary proceedings in order to ensure the student has a qualified person advocating on their behalf. The California Alliance supports this measure to establish adequate protections for our youth in foster care."

ASSEMBLY FLOOR: 65-0, 1/24/22
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Cervantes, Choi, Cooley, Cunningham, Daly, Davies, Flora, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Arambula, Mia Bonta, Carrillo, Chen, Cooper, Megan Dahle, Eduardo Garcia, Mayes, McCarty, Ramos, Waldron

Prepared by: Kordell Hampton / ED. / (916) 651-4105
8/26/22 15:32:07

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

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THIRD READING

Bill No: AB 759
Author: McCarty (D), et al.
Amended: 8/24/22 in Senate
Vote: 21

SENATE ELECTIONS & C.A. COMMITTEE: 3-2, 6/28/21
AYES: Hertzberg, Leyva, Newman
NOES: Glazer, Nielsen

SENATE GOVERNANCE & FIN. COMMITTEE: 4-1, 7/8/21
AYES: McGuire, Durazo, Hertzberg, Skinner
NOES: Nielsen

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/26/21
AYES: Portantino, Bradford, Kamlager, Laird, McGuire
NOES: Bates, Jones

ASSEMBLY FLOOR: 51-20, 6/2/21 - See last page for vote

SUBJECT: Elections: county officers

SOURCE: Organize Sacramento

DIGEST: This bill requires counties to hold elections for district attorney and sheriff with the presidential primary, except as specified. This bill also authorizes a county board of supervisors to adopt an ordinance to hold elections for other county officers with the presidential primary. This bill further provides that a district attorney or sheriff elected in 2022 shall serve a six-year term with the next election for that office to occur at the 2028 presidential primary.

Senate Floor Amendments of 8/24/22 delete the county assessor from the presidential primary requirement and also delete the two-year term county option for district attorney and sheriff, resulting in a six-year term for those elected in 2022. The amendments also make other clarifying, technical, and conforming changes.

Senate Floor Amendments of 9/3/21 require county assessors be elected in presidential election years; permit a county, by ordinance, to provide for a two-year term instead of a six-year term for a district attorney, sheriff, or assessor elected in 2022; and make other clarifying, technical, and conforming changes.

ANALYSIS:

Existing law:

1) Requires the Legislature, pursuant to the California Constitution, to provide for county powers, an elected county sheriff, an elected district attorney, an elected assessor, and an elected governing body in each county.

2) Permits a county, for its own government, to adopt a charter by majority vote of its electors voting on the question. Requires a county charter to provide for an elected sheriff, an elected district attorney, an elected assessor, other officers, their election or appointment, compensation, terms, and removal, among other provisions.

3) Provides that specified general laws adopted by the Legislature to govern the powers and officers of counties are superseded by a legally adopted county charter as to matters for which the California Constitution permits a county to make provision in its charter, except as specified.

4) Provides that the county officers to be elected by the people are the treasurer, county clerk, auditor, sheriff, tax collector, district attorney, recorder, assessor, public administrator, and coroner, and permits any county office, other than sheriff, district attorney, assessor, and supervisor, to become an appointive office with voter approval, as specified.

5) Requires, pursuant to the California Constitution, that all county offices be nonpartisan. Generally provides, pursuant to the Elections Code, that any candidate for a nonpartisan office who at a primary election receives votes on a majority of all the ballots cast for candidates for that office is elected to that office and that the office shall not appear on the ballot at the ensuing general election, as specified.

6) Provides that the general rules in the Elections Code for electing candidates for a nonpartisan office, described above in 5), do not apply to counties whose charters provide a system for nominating candidates for those offices, among other exceptions.

7) Requires all elective county officers to be elected at the general election at which the Governor is elected, except as specified.

8) Provides that an election to select county officers shall be held with the statewide primary at which candidates for Governor are nominated, except as specified. Provides that if a county officer is not elected by majority vote, this election shall be deemed a primary election and a county general election shall be held with the following statewide general election, as specified.

9) Provides, pursuant to the California Constitution, that a Superintendent of Schools for each county may be elected at each gubernatorial election, or may be appointed by the county board of education, as specified.

10) Establishes a procedure for the elections of county supervisors to be staggered by dividing the supervisors into two classes, which results in some county supervisors being elected in gubernatorial election years and other supervisors being elected in presidential election years.

This bill:

1) Repeals the requirement that all elective county officers be elected at the statewide primary and general election at which the Governor is elected, as specified.

2) Requires an election to select a district attorney and sheriff be held with the presidential primary, as specified.

3) Provides that a district attorney and sheriff elected in 2022 serves a six-year term and the next election for that office occurs at the 2028 presidential primary.

4) Provides that an election to select county officers other than district attorney and sheriff be held with the statewide primary at which candidates for Governor are nominated, except if a county board of supervisors adopts an ordinance as authorized in 5) below.

5) Authorizes a county board of supervisors to adopt an ordinance to hold an election to select any county officer other than a county superintendent of schools with the presidential primary, except as specified.

6) Provides that, notwithstanding any other law, the requirement that the district attorney and sheriff be elected in presidential election years applies to both general law and charter counties, except those charter counties that, on or

before January 1, 2021, expressly specified in their charter when an election for district attorney or sheriff would occur.

7) Provides that if a county officer is not elected at the statewide primary, the election shall be deemed a primary election and a county general election for the office shall be held with the following statewide general election, as specified.

8) Makes technical and conforming changes.

9) Includes a severability clause.

Background

Elections for County Office. The California Constitution requires that each county have a board of supervisors and at least three countywide elected offices: sheriff, district attorney, and assessor. Other countywide offices may be elected or appointed. Almost all countywide elected officers in California are elected in gubernatorial election years, except in two charter counties (Los Angeles County and the City and County of San Francisco), which have adopted charters specifying different election dates as to some countywide offices. By contrast, county supervisors are always elected in *both* gubernatorial and presidential election years because of a requirement that these elections be staggered by two years. Existing law also generally provides that if no candidate for a county office receives a majority of the vote in a primary election, the two candidates receiving the most votes will advance to a runoff election held with the statewide general election.

This bill does not change the requirement under existing law that county elections include a runoff held with the statewide general election if no candidate receives a majority of the vote in the primary.

Charter Counties. The California Constitution allows cities and counties to adopt charters, which gives those jurisdictions greater autonomy over local affairs. For counties, the Constitution specifies that a county's charter shall provide for "an elected sheriff, an elected district attorney, an elected assessor, other officers, their election or appointment, compensation, terms and removal," among other provisions. According to information from the California State Association of Counties, 14 (Alameda, Butte, El Dorado, Fresno, Los Angeles, Orange, Placer, Sacramento, San Bernardino, San Diego, San Francisco, San Mateo, Santa Clara, and Tehama) of California's 58 counties are charter counties. The remaining 44 counties are commonly referred to as "general law" counties, because they are subject to the general laws passed by the Legislature.

The requirement in this bill that the district attorney and sheriff be elected in presidential years applies both to general law and charter counties, *except* "those charter counties that, on or before January 1, 2021, expressly specified in their charter when an election for district attorney or sheriff would occur." In most of California's 14 charter counties, the charter provides for elective county officers to be nominated and elected in accordance with general law, so this exception would not apply. However, according to an analysis by the Assembly Committee on Elections, at least four counties have adopted charters that expressly require that the district attorney, sheriff, and assessor (San Bernardino, San Francisco, and Santa Clara) or just the sheriff and assessor (Los Angeles) be elected on a date other than the presidential primary; those counties would not be required to change the election dates of those officers under this bill.

Presidential Election vs. Gubernatorial Election Turnout. Generally, voter participation in presidential elections in California exceeds voter participation in gubernatorial elections. Over the last eight election cycles, from 2006 through 2020, voter turnout as a percentage of eligible voters has averaged 23.6% in gubernatorial primary elections compared to 33.7% in presidential primary elections, a 10% increase on average. The average percentage increase in turnout is even more significant in general elections. During the same time period, voter turnout in gubernatorial general elections has averaged 41.1% of eligible voters compared to 61.1% of eligible voters in presidential general elections, or a 20% increase. However, the vast majority of elections for county officers are decided with a majority winner at the statewide primary election, without requiring a subsequent runoff election held with the statewide general election.

There is also some evidence that presidential elections are more representative of California's diverse electorate than gubernatorial elections. In 2020 and 2021, the Center for Inclusive Democracy (CID) at the University of Southern California published two reports looking at the share of the overall electorate that was Latino or Asian American in statewide elections. Over eight elections, from 2006 through 2020, Latino voters' share of the electorate increased from an average of 13.4% in gubernatorial primaries to 16.8% presidential primaries, an increase of 3.4%. During the same time period, Asian American voters' share of the electorate went from 6.8% to 7.1% of the electorate, an increase of 0.3%. For general elections, the CID data showed Latino voters' share of the electorate increasing from an average of 17.1% in gubernatorial general elections to 21.2% in presidential general elections, a 4.1% increase. Asian American voters also saw their share of the electorate increase from 7.2% to 8.4%, a 1.2% increase on average.

However, these percentages show *overall* turnout changes between gubernatorial and presidential elections, which may differ from the turnout for *county offices* held at the same election, because many voters will vote in higher-profile contests like Governor or President but leave other contests on their ballot blank.

Comments

1) According to the author, local government, specifically, county officers and their policies have an immediate and direct effect on our daily lives. However, voter turnout for local elections fluctuates significantly depending on what year elections are held. For example, in Sacramento County voter turnout was 14-16% higher in presidential election years compared to gubernatorial election years. AB 759 will promote political equality and enhanced civic engagement with county elections by aligning the election of county district attorneys and sheriffs with the presidential election.

2) *Applicability to charter counties?* This bill prohibits counties from holding district attorney or sheriff elections in non-presidential election years unless that different election date was adopted as a charter amendment on or before January 1, 2021. However, given the autonomy granted by the California Constitution to charter counties over elected county officers, it is unclear whether this prohibition can be applied to charter counties. It may be argued that the prohibition conflicts with a charter county's authority to provide for the terms of elected county officers. On the other hand, the autonomy granted to charter counties over the election of county officers is considerably narrower than that granted to charter cities under the California Constitution. The fact that the Constitution grants "plenary authority" for a city charter to provide for "the times at which" municipal officers are elected, but does not do so for county charters, may support the argument that the Legislature can require that charter counties elect county officers on certain election dates.

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

According to the Senate Appropriations Committee, by changing the date for the election of district attorney and sheriff, thereby imposing additional duties on local elections officials, this bill creates a state-mandated local program. To the extent the Commission on State Mandates determines that the provisions of this bill create a new program or impose a higher level of service on local agencies, local agencies could claim reimbursement of those costs (General Fund). The magnitude is unknown, but potentially in the millions of dollars annually. This bill would not result in new costs to the Secretary of State (SOS).

SUPPORT: (Verified 8/26/22)

Organize Sacramento (source)
AAPIs for Civic Empowerment Education Fund
Alliance of Californians for Community Empowerment Action
California Faculty Association
California League of Conservation Voters
Californians United for a Responsible Budget
Democratic Party of Sacramento County
Drug Policy Alliance
Ella Baker Center for Human Rights
Indivisible Los Gatos
Indivisible SF
Initiate Justice
League of Women Voters of California
Oakland Privacy
Queer Democrats of Sacramento
Sacramento ACT
Sister District Project Sacramento
Smart Justice California
The Sacramento Central Labor Council
Voices for Progress

OPPOSITION: (Verified 8/26/22)

California Assessors' Association
California Association of Clerks and Election Officials
California Association of County Treasurers and Tax Collectors
California District Attorneys Association
California State Sheriffs' Association
Los Angeles Professional Peace Officers Association
Monterey County District Attorney Jeannine M. Pacioni
Napa County Board of Supervisors

ARGUMENTS IN SUPPORT: In a letter supporting AB 759, the League of Women Voters of California stated, in part:

> Democracy is strongest when our representatives are chosen at elections with the highest rates and broadest diversity of voter turnout. Overall, presidential elections attract significantly more voters than midterm elections. Furthermore, midterm electorates include fewer people from underrepresented populations – including youth, Black, Latino, and Asian American people

than do presidential electorates. In recent years, California has made great strides in removing impediments to voter participation and expanding the franchise. Ensuring that a larger and more inclusive pool of voters can vote for candidates who reflect their values is critical to making democracy work.

ARGUMENTS IN OPPOSITION: In a letter opposing AB 759, the California Assessors' Association stated, in part:

> As currently amended, county assessors are stricken from the requirement of having our election held with the presidential primary; however, this bill still leaves our office, and other county offices, up for inclusion into this requirement...Several assessors across California are also county election officers, not only moving assessor elections to presidential years, but election official elections as well. This will create a burden that may impact election efficacy in those counties….AB 759 negatively impacts assessors' independence as elected constitutional office, and it is for these reasons that CAA respectfully requests that AB 759 be amended to remove the Board of Supervisors from having the ability to select a county officer to hold their election with the presidential primary through ordinance.

ASSEMBLY FLOOR: 51-20, 6/2/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Daly, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Kiley, Lackey, Mathis, Nguyen, O'Donnell, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Bigelow, Cooley, Cooper, Lorena Gonzalez, Grayson, Low, Mayes, Ramos

Prepared by: Karen French / E. & C.A. / (916) 651-4106
8/26/22 15:32:08

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

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THIRD READING

Bill No: AB 775
Author: Berman (D), et al.
Amended: 8/16/22 in Senate
Vote: 27

SENATE ELECTIONS & C.A. COMMITTEE: 5-0, 7/12/21
AYES: Glazer, Nielsen, Hertzberg, Leyva, Newman

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 6/3/21 - See last page for vote

SUBJECT: Contribution requirements: recurring contributions

SOURCE: Fair Political Practices Commission

DIGEST: This bill (1) prohibits a candidate or committee from soliciting or accepting a recurring campaign contribution without receiving the contributor's affirmative consent; (2) specifies that passive action by the contributor, such as failing to uncheck a pre-checked box authorizing a recurring contribution, does not meet the requirement of affirmative consent; and (3) requires that a campaign provide a contributor with a receipt including information on their recurring contribution and how to cancel it.

Senate Floor Amendments of 8/16/22 add a coauthor, remove a coauthor, and provide additional details on the process and procedures relating to the solicitation of a recurring contribution, the penalties for a violation of soliciting a recurring contribution without affirmative consent, and create a cure process to resolve issues relating to recurring contributions.

ANALYSIS:

Existing law:

1) Establishes the Fair Political Practices Commission (FPPC), and makes it responsible for the impartial, effective administration and implementation of the Political Reform Act (PRA).

2) Establishes limits on a contribution from a person, other than a political party committee, to a candidate for elective state office, as specified. Establishes default limits on campaign contributions from a person to a candidate for county or city office, as specified. Permits a county or city to establish its own contribution limits, which prevail over these default limits.

3) Requires, pursuant to FPPC regulations, written solicitations by candidates for elective state office, and for certain elective city or county offices, to identify the relevant campaign committee by name and the specific office for which the contributions are solicited.

This bill:

1) Requires a solicitation by a candidate or committee, directly or through an agent or intermediary, for a recurring contribution be in a form that requires affirmative consent from the person making the recurring contribution.

2) Prohibits a candidate or committee from accepting a recurring contribution from a person unless the candidate or committee receives the affirmative consent of the person to make a recurring contribution at the time of the initial contribution.

3) Specifies that passive action by the contributor, such as failing to uncheck a pre-checked box authorizing a recurring contribution, does not meet the requirement of affirmative consent.

4) Provides that a violation pursuant to this bill occurs each time a candidate or committee solicits a recurring contribution in a form that does not require affirmative consent or accepts an initial recurring contribution in response to a solicitation that was in a form that did not require affirmative consent from the contributor.

5) Provides that a candidate or committee that accepts recurring contributions subsequent to an initial recurring contribution in response to a solicitation that was in a form that did not require affirmative consent from the contributor is liable for a fine not to exceed three times the aggregate amount of the subsequent recurring contributions received if all of the following are true:

a) The candidate or committee knew or should have known that the solicitation required affirmative consent.

b) The candidate or committee knew or should have known that the contributor did not give affirmative consent for making the recurring contributions.

c) The recurring contributions, in the aggregate, exceed $1,000.

6) Requires a candidate or committee that accepts a recurring contribution to do all of the following:

a) Provide a receipt to the contributor that clearly and conspicuously discloses all terms of the recurring contribution within three days after the initial contribution is received and within three days after each recurring contribution is received.

b) Provide all necessary information to cancel the recurring contribution in each communication with the contributor that concerns the contribution.

c) Immediately cancel a recurring contribution upon request of the contributor.

7) Requires a recurring contribution accepted in response to a solicitation that did not require affirmative consent be returned to the contributor within 14 days of the earlier of receipt of a request from the contributor to return the contribution or the date on which the candidate or committee becomes aware that the solicitation of the recurring contribution was in violation, as specified. Requires a contribution accepted after a contributor requested to cancel a recurring contribution shall be returned to the contributor within 14 days of the request to cancel the recurring contribution.

8) Provides that the provisions of this bill do not apply to a sponsored committee soliciting or accepting contributions from the sponsor's members, affiliates, employees, or shareholders.

9) Defines, for purposes of this bill, "recurring contribution" to mean a contribution from a person to a candidate or committee that is automatically charged to the person's bank account, credit card, or other payment account on a repeated basis, such as weekly or monthly, without approval or any other affirmative consent by the person after their initial contribution to the candidate or committee.

Background

Recurring Campaign Contributions. In the past year, several news publications have reported on political campaigns, including campaigns involving candidates for federal office and California state office, using pre-checked boxes in online solicitations to automatically enroll contributors into making recurring contributions. Contributors who did not want to make recurring contributions had to affirmatively opt-out of doing so by unchecking the pre-checked box. These articles include quotes from contributors who allege that they were misled into giving recurring contributions when they did not intend to do so.

In particular, an April 2021 *New York Times* article found that, in the 2020 presidential election campaign, one major party candidate's campaign's use of pre-checked boxes to authorize additional contributions in campaign solicitations led to a significant increase in contributor refund requests, suggesting many contributors had not intended to give an additional or recurring contribution. In some cases, these additional contributions resulted in contributors giving over the applicable contribution limits. The *Times* analysis showed that, after the introduction of pre-checked boxes and other formatting changes which had the effect of making the disclosure of the recurring payment associated with the pre-checked box less prominent, the overall contribution refund rate for the candidate's campaign and that of other political organizations supporting his candidacy grew to over 12% of all funds raised online by the end of 2020, compared with a rate of under 2% at the start of the year, before the pre-checked boxes were introduced.

Shortly after the *New York Times* article was published, in May of 2021, the Federal Elections Committee (FEC) met to discuss possible statutory changes to the Federal Election Campaign Act to recommend to Congress, which included possible action to regulate recurring campaign contributions in federal elections. According to a May 2021 memorandum prepared for the meeting by FEC Commissioner Ellen Weintraub:

> [FEC] staff are regularly contacted by individuals who have discovered recurring contributions to political committees have been charged to their credit card accounts or deducted from their checking accounts. In many cases, the contributors do not recall authorizing recurring contributions. Often, these contributors have attempted unsuccessfully to cancel the recurring transactions with the political committee prior to contacting FEC staff.
>
> Some fundraising devices use 'pre-checked boxes' to treat a one-time contribution as a recurring contribution. In this way, some committees are

> considering the contributor to have authorized the recurring contributions without obtaining the contributors' affirmative consent. The Commission's experience strongly suggests that many contributors are unaware of the 'pre-checked' boxes and are surprised by the already completed transactions appearing on account statements.

The FEC unanimously approved a recommendation that Congress pass a law prohibiting the use of pre-checked boxes for recurring campaign contributions and requiring that campaigns provide contributors with information on the terms of their recurring donation and how to cancel future contributions. Shortly thereafter, United States (US) Senator Amy Klobuchar and US Representative Michael Levin introduced S. 1786 and H. R. 3832, respectively, which would enact the statutory changes to FECA recommended by the FEC. Both bills are pending before Congress.

Automatic Recurring Payments in Business. Automatic recurring payments are a common billing practice for many types of businesses, especially those offering subscription-based services to consumers, like gym memberships, video streaming services, or cell phone plans. Automatic payments can provide a more convenient billing experience for consumers and more predictable revenue and timely bill payments for businesses. However, according to the Federal Trade Commission, so-called "negative option marketing" practices, "where the seller interprets a customer's failure to take an affirmative action, either to reject an offer or cancel an agreement, as assent to be charged for goods or services," can also "pose serious financial risks to consumers if appropriate disclosures are not made and consumers are billed for goods or services without their consent." Over the past decade, several companies have entered into class action settlements with subscribers over allegedly deceptive automatic renewal practices.

In response to such complaints, in 2009, the Legislature passed and Governor Schwarzenegger signed SB 340 (Yee, Chapter 350, Statutes of 2009), which imposed new restrictions on automatic purchase renewals that are similar to this bill. SB 340 requires that a business making an automatic renewal offer present the terms of the offer in a clear and conspicuous manner, receive the consumer's affirmative consent to the automatic renewal offer terms, provide an acknowledgment to the consumer that includes the automatic renewal terms and information regarding how to cancel the policy, and provide an easy-to-use method for cancelling payments, among other provisions. SB 313 (Hertzberg, Chapter 356, Statutes of 2017) added to these provisions by requiring additional disclosure for automatic renewal offers that include a free introductory gift and by requiring

that there be an online cancellation option where an automatic renewal offer is accepted online, among other changes.

Restrictions on Campaign Solicitations. Existing law includes some restrictions on how candidates or campaign committees solicit campaign funds. These restrictions are mostly intended to minimize the possibility of contributors being misled as to the identity of the solicitor, or the relationship between the solicitor and other candidates and campaign committees. The Elections Code includes restrictions on campaign committees' (and other entities') ability to solicit funds using a committee name that includes the name of another campaign committee, candidate, or political party, without the authorization of that committee, candidate, or party, as specified. Also pursuant to the Elections Code, a person who is raising funds to benefit a candidate or campaign committee for the purported and exclusive use of that candidate or committee, but who never received that candidate or committee's authorization, must include a notice in any fundraising communication clearly and conspicuously disclosing that fact. Since these restrictions are not codified in the PRA, the FPPC is not authorized to enforce them.

The PRA and FPPC regulations also include some restrictions on solicitations, which the FPPC can enforce. Notably, under FPPC regulations, a written solicitation by a candidate must include the candidate's committee name and the office being sought. The PRA also includes numerous restrictions on *accepting* contributions depending on the source or amount of the contribution, which are intended to prevent corruption or the appearance of corruption. For example, candidates for state office may not accept campaign contributions over specified limits from any one contributor, and are also prohibited from accepting contributions from registered lobbyists in certain circumstances. Ballot measure committees are also prohibited from soliciting or accepting contributions from foreign governments or principals.

Comments

1) According to the author, last year, the *New York Times* reported that Donald Trump's 2020 campaign made extensive use of prechecked boxes to authorize recurring donations on its online fundraising platforms. As the campaign ran low on money, its tactics became increasingly deceptive, and it took steps to obscure disclosures that donors were authorizing recurring contributions by failing to de-select those prechecked boxes. In all, the *New York Times* reported that the Trump operation was forced to refund hundreds of thousands of campaign contributions totaling more than $122 million.

Fortunately, it appears that campaigns in California have been much less likely to engage in the aggressively deceptive fundraising tactics employed by the Trump campaign. Additionally, some California candidates who previously used pre-checked recurring contribution boxes on their online fundraising platforms stopped doing so in response to criticism of that practice.

AB 775 prohibits a candidate or political committee, as specified, from accepting recurring contributions from a person unless the contributor provides affirmative consent to make a recurring contribution at the time of the initial contribution. AB 775 further makes it clear that passive action by the contributor—such as failing to uncheck a pre-checked box—does not constitute affirmative consent. This bill will ensure that Californians are not misled into making repeated and unintended donations.

Related/Prior Legislation

SB 340 (Yee, Chapter 350, Statutes of 2009) required any business making an "automatic renewal" or "continuous service" offer to clearly and conspicuously disclose terms of the offer and obtain the consumer's affirmative consent to the offer, among other provisions.

SB 1215 (Rains and Richardson, Chapter 872, Statutes of 1979) prohibited a person, as defined, who solicits funds to support or oppose a candidate or committee, to include the name of that candidate or committee in that person's name without authorization, as specified. SB 1215 also required a person who solicits funds on behalf of a committee for its purported and exclusive use, without that candidate or committee's authorization, to provide a notice in any fundraising communication, as specified.

AB 1033 (Lyon, Chapter 576, Statutes of 1941) prohibited solicitations from a person, as defined, whose name includes the name of a political party, as specified.

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

SUPPORT: (Verified 8/17/22)

Fair Political Practices Commission (source)

OPPOSITION: (Verified 8/17/22)

None received

ASSEMBLY FLOOR: 76-0, 6/3/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bigelow, Carrillo, Waldron

Prepared by: Scott Matsumoto / E. & C.A. / (916) 651-4106
8/24/22 16:43:04

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

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THIRD READING

Bill No: AB 777
Author: McCarty (D)
Amended: 8/24/22 in Senate
Vote: 21

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

SENATE APPROPRIATIONS COMMITTEE: 6-1, 8/26/21
AYES: Portantino, Bradford, Jones, Kamlager, Laird, McGuire
NOES: Bates

ASSEMBLY FLOOR: 75-0, 6/2/21 - See last page for vote

SUBJECT: State property: transfer: University of California

SOURCE: Author

DIGEST: This bill authorizes the Department of General Services (DGS) to transfer, without charge, a parcel of property in Sacramento, California, if that parcel is reported as excess, to the Regents of the University of California (UC Regents) to be used by the University of California Davis (UC Davis) for prescribed purposes, including using the majority of the property to provide affordable student housing.

Senate Floor Amendments of 8/24/22 provide that the property can be used for providing below local market rental rate housing for students, staff, and faculty. The bill currently provides that a use of the property can be for affordable housing.

Senate Floor Amendments of 8/16/22 (1) require colleges, universities, and nonprofit entities for projects described in this bill to ensure a skilled and trained workforce be is used to complete the projects, (2) require those entities to send out a notice of solicitation to specified labor organizations, (3) require contractors and

subcontractors to pay prevailing wages to employees, and (4) establish a process to prequalify prime contractors and subcontractors.

Senate Floor Amendments of 9/3/21 (1) delete the requirement that the majority of the property be used to provide affordable housing and instead require that the majority of the property be used to provide affordable housing, which may include affordable student housing, (2) delete the "skilled and trained workforce" language in the bill, and (3) require UC Davis to reimburse DGS for all actual costs incurred as a result of the transfer.

ANALYSIS:

Existing law:

1) Authorizes DGS, subject to legislative approval, to sell, lease, exchange, or transfer various specified properties for current market value, or upon such other terms and conditions that DGS determines are in the best interest of the state.

2) Establishes criteria for state agencies to use in determining and reporting excess lands. A state agency must report land as excess that is:

   a) Not currently utilized, or is underutilized, for any existing or ongoing programs;

   b) Land for which the agency cannot identify a specific utilization relative to future needs; and,

   c) Land not identified by the state agency within its master plan for facility development.

3) Requires DGS to dispose of surplus state real property in a specified manner, and prescribes the priority of disposition of the property before DGS may offer it for sale to private entities or individuals.

4) Authorizes DGS to sell surplus real property to a local agency or to a nonprofit affordable housing sponsor for affordable housing projects at a sales price less than fair market value if DGS determines that such a discount will enable housing for persons and families of low or moderate income.

5) Requires, under the California Constitution, that the proceeds from the sale of surplus state property be used to pay the principal and interest on bonds issued pursuant to the Economic Recovery Bond Act, until the principal and interest

on those bonds are paid in full, the final payment of which was made in the 2015-16 fiscal year, after which these proceeds are required to be deposited into the Special Fund for Economic Uncertainties.

6) Exempts the sale of surplus property sold "as is" from designated provisions of the California Environmental Act (CEQA). However, the buyer or transferee of a parcel is subject to CEQA as well as any local governmental entitlement or land use approval requirements.

7) Requires, under the California Public Records Act, state and local agencies to make its records available for public inspection, unless an exemption from disclosure applies.

This bill:

1) Authorizes DGS to transfer, without charge, a parcel of property in Sacramento, California, to the UC Regents to be used by UC Davis for the following purposes:

   a) Below local market rental housing for students, staff, and faculty.

   b) Childcare space.

   c) Academic and research programs.

   d) Ancillary student services.

2) Requires the majority of the developed square footage of the property to be used to provide below local market rental rate housing for students, staff, and faculty, and may take into account the costs of utilities, food service, operations, maintenance, and other services.

3) Requires UC Davis to reimburse DGS for all actual costs incurred as a result of the transfer, as specified.

4) Provides that if the UC Regents have not begun a formal planning process within a year of the transfer, or if the UC Regents indicate that they will not use the property for its intended purpose, the property shall revert to DGS.

5) Provides that if the property reverts to DGS, the property shall be reviewed to determine if the land is in excess according to current law.

6) Requires for this specific participating colleges and universities and participating nonprofit entities to do all of the following:

a) At least seven days before issuing a bid solicitation for the project, send a notice of the solicitation that describes the project to specified labor organizations, as specified.

b) Ensure that all contracts and subcontractors performing work on the project will be required to pay prevailing wages, as specified.

c) For projects totaling $25 million or more, seek bids containing an enforceable commitment that all contractors and subcontractors performing work on the project will use a skilled and trained workforce, as specified.

d) Establish a process to prequalify prime contractors and subcontractors, as specified, and the meet specified requirements.

e) Provide a monthly compliance report, as specified

f) Notify the Department of Industrial Relations within five calendar days of the contract award.

Comments

Purpose of the bill. According to the author's office, "the college affordability crisis isn't just about high tuition costs – housing accounts for almost half the total cost of attending college at the UC. Nearly one in every three college students in California faces housing insecurity. In order for students to succeed, their basic needs must be met. This bill takes concrete steps to address this need at the UC Davis Sacramento campus by providing affordable student housing to support enrollment growth."

Existing law already authorizes DGS to transfer excess lands between state agencies. However, because the University of California is not included in the state definition of Government Code that DGS's transfer of jurisdiction authority relies upon this bill is needed to allow for the transfer of this property to the UC Regents.

The property. The Department of Justice (DOJ) building is located at 4949 Broadway, in Sacramento and was constructed in 1982. It is two stories with approximately 355,000 square feet on approximately 23.85 acres. It is uniquely positioned adjacent the UC Davis Medical Center. This property has the potential to create affordable housing however, there are many steps and decisions that would still need to occur. First and foremost, DGS would first need to identify the property as excess.

It is uncertain whether the DOJ will vacate the property entirely and whether DGS will find another state agency to use the property. As this bill is written, if the land is reported as excess, the land could be transferred to the UC Regents to be developed for affordable housing near the UC Davis Medical Center. If within a year the UC Regents have not begun a formal planning process within a year of the transfer, or if the UC Regents indicate that they will not use the property for its intended purpose, the property would revert back to DGS.

Disposal of state property. Existing law requires state agencies to annually report to DGS excess lands that are not currently utilized, or are underutilized, for any existing or ongoing programs by that state agency. Once the land is declared excess by a state agency, DGS is responsible for notifying other state agencies that might have use for that property. If no state agency has a need for that property, existing law sets up a very specific process for disposal of that property.

DGS is currently responsible for the disposition of state-owned property that has been declared surplus to future state needs. The Legislature must declare the property to be surplus and must authorize the Director of DGS to sell, exchange, lease, or transfer the surplus property according to specified procedures set forth in law.

Generally, current law requires surplus property to be transferred or sold at market value, or upon such other terms and conditions that DGS determines are in the best interest of the state. Current law gives right of first refusal on any surplus property to a local agency and then to a nonprofit affordable housing sponsor, prior to being offered for sale to private entities or individuals in the open market. In addition, DGS is authorized to sell surplus property to a local agency or to a nonprofit affordable housing sponsor at a sales price less than fair market value if DGS determines that such a discount will enable housing for individuals or families of low or moderate income.

Related/Prior Legislation

SB 828 (Committee on Governmental Organization, Chapter 189, Statutes of 2021) authorized the DGS to dispose of four specified state properties, as specified.

AB 518 (Calderon, Chapter 43, Statutes of 2020) authorized DGS, until January 1, 2025, to sell the Southern Youth Correctional Reception Center and Clinic to the City of Norwalk at fair market value upon terms and conditions DGS determines are in the best interest of the state.

SB 501 (Hurtado, 2019) would have required DGS to transfer ownership of the Reedley Armory to the City of Reedley for the purpose of providing services that improve the quality of life for veterans and their families, as specified. (Never heard in the Assembly Veteran Affairs Committee)

SB 20 (Dodd, Chapter 240, Statutes of 2019) extended the sunset date, which expired on January 1, 2015, to January 1, 2026, for the state to sell the area known as the Skyline Wilderness Park in the County of Napa.

SB 281 (Wiener, 2019), among other things, would have required DGS to enter into negotiations with the newly created Cow Palace Authority for the purchase of the Cow Palace. (Never heard in the Assembly Local Government Committee)

AB 653 (Bloom, Chapter 263, Statutes of 2019) authorized DGS, with the approval of the Adjutant General, to lease, for a term of 25 years, approximately 1.3 acres of the real property of the real property located at 1300 Federal Avenue, Los Angeles, California, known as the West Los Angeles National Guard Armory to the County of Los Angeles.

AB 1198 (Petrie-Norris, Chapter 824, Statutes of 2019) required DGS, if any land within the grounds of the Fairview Developmental Center is reported as excess and DGS determines that the land is needed by more than one state agency, to conduct a public hearing, as specified.

SB 922 (Nguyen, 2018) would have authorized the DGS, until January 1, 2029, to dispose of surplus state property located within two miles of a campus of the UC, California State University, or California Community Colleges by first offering the property to a local agency or a nonprofit organization for the development of affordable student housing. (Failed passage in the Senate Governmental Organization Committee)

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

According to the Senate Appropriations Committee, to the extent that DGS determines that the property located at 4949 Broadway is reported as excess, and there are costs related to early termination of power purchase agreements for the property, fees could total up to $7.95 million if terminated in 2022. The DGS notes that some termination costs could be avoided if the UC Davis takes over the power to purchase agreement.

In addition, the DGS estimates staff costs of approximately $35,000 to execute the transfer of the property, which would be borne by the UC. Additional costs related

to environmental site investigations and legal and consultant expenses as well as associated staff time are unknown at this time.

SUPPORT: (Verified 8/23/22)

City of Sacramento

OPPOSITION: (Verified 8/23/22)

Construction Employers' Association
Western Electrical Contractors Association

ARGUMENTS IN SUPPORT: According to the City of Sacramento, "AB 777 paves the way for the identified property to be used for affordable student and employee housing as an integral part of the UC Davis Sacramento campus – including the 1.4 million sq. ft. Aggie Square project. Located on the UC Davis Sacramento Campus, along the Stockton Boulevard corridor, Aggie Square will be an innovation hub for the Sacramento region, driving commercialization of university research, growing local companies, bringing new employment opportunities to Sacramento, and adding vitality to the Stockton Boulevard corridor. The project offers tremendous opportunity to connect UC Davis students with expanded academic and research offerings occurring at Aggie Square."

ARGUMENTS IN OPPOSITION: According to the Western Electrical Contractors Association (WECA), "until August 16, AB 777 simply permitted the transfer of a small parcel of State land to the UC Regents for affordable student housing. WECA opposes legislation like AB 777 that introduces new contracting requirements in the final days of the session, which does not afford the construction industry or, for that matter, the higher education community an opportunity to consider the amendments and the appropriate policy committees to analyze the impacts of these changes."

ASSEMBLY FLOOR: 75-0, 6/2/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Irwin, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith,

Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bigelow, Bryan, Lorena Gonzalez, Jones-Sawyer

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
8/26/22 15:32:09

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

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THIRD READING

Bill No: AB 778
Author: Eduardo Garcia (D), Mathis (R) and Robert Rivas (D), et al.
Amended: 8/24/22 in Senate
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 13-0, 6/14/22
AYES: Dodd, Nielsen, Allen, Borgeas, Bradford, Hertzberg, Hueso, Jones, Kamlager, Melendez, Portantino, Roth, Wilk
NO VOTE RECORDED: Becker, Glazer

SENATE AGRICULTURE COMMITTEE: 5-0, 6/21/22
AYES: Borgeas, Hurtado, Caballero, Eggman, Glazer

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 75-0, 5/27/21 - See last page for vote

SUBJECT: Institutional purchasers: purchase of California-grown agricultural food products

SOURCE: Growing Coachella Valley

DIGEST: This bill requires a California state-owned or state-run institution that purchases agricultural food products to implement necessary practices to achieve a goal of ensuring that at least 60% of the agricultural food products that it purchases in a calendar year are grown or produced in the state by December 31, 2025, as specified.

Senate Floor Amendments of 8/24/22 delete the requirement for state agencies to report specified information to the Department of General Services if they fail to achieve the goals established by this bill. In addition, the amendments change the definition of "agricultural food product" to instead mean "any fresh or processed food product including, but not limited to, fruits, nuts, vegetables, herbs,

mushrooms, dairy, shell eggs, honey, pollen, grains, livestock meats, rabbit meats, and fish, including shellfish"

ANALYSIS:

Existing law:

1) Requires all California state owned or state-run institutions, except public universities and colleges and school districts, to purchase an agricultural product grown in California when the bid or price of the California-grown agricultural product does not exceed by more than five percent the lowest bid or price for an agricultural product produced outside the state and the quality of the California-grown agricultural product is comparable.

2) Requires state institutions, when they solicit or intend to accept a bid or price for agricultural products grown outside of the state, to accept the bid or price from a vendor that packs or processes these agricultural products in the state before accepting a bid or price from a vendor that packs or processes these agricultural products outside of the state when specified conditions are met, including that the bid or price of the agricultural product grown outside of the state and packed or processed in the state does not exceed by more than five percent the lowest bid or price.

3) Requires a school district that solicits bids for the purchase of an agricultural products to accept a bid or price for the agricultural product when it is grown in California before accepting a bid or price for an agricultural product that is grown outside of the state when the bid or price of the California-grown agricultural product does not exceed the lowest bid or price for an agricultural product produced outside of the state and the quality of the California-grown agricultural product is comparable.

4) Provides that these provisions only apply to a contract to purchase agricultural product for a value that is less than the value of the threshold for supplies and services for which California has obligated itself under the Agreement on Government Procurement of the World Trade Organization (WTO).

5) Requires that when price, fitness, or quality is equal, the state shall purchase supplies grown, manufactured, or produced in-state instead of out-of-state. However, this section has been inoperative since the 1970s in response to a court ruling.

6) Grants, through the Small Business Procurement and Contract Act, a five perfect bid preference for small businesses and microbusiness in the award of a

contract for goods, services, or information technology to the state and in the construction of state facilities.

This bill:

1) Requires a California state-owned or state-run institution that purchases agricultural food products to implement necessary practices to achieve a goal of ensuring that at least 60% of the agricultural food products that it purchases in a calendar year are grown or produced in the state by December 31, 2025. The bill provides that this provision does not apply to segments of the public postsecondary education or local educational agencies.

2) Changes current provisions related to school districts purchasing agricultural products to apply to the purchase of a domestic agricultural food product that is grown outside of the state, instead of an agricultural product that is grown outside of the state, and would expand the application of this requirement from school districts to local educational agencies.

3) Eliminates current provisions in law related to preferences for in-state vendors.

4) Provides that the bill's provisions neither limit nor expand California's obligations under the Agreement on Government Procurement of the World Trade Organization.

Background

Purpose of the Bill. According to the author's office, "California laws require growers to follow some of the strictest environmental regulations in the country. Therefore, we should be giving our farmers the benefits of the doubt that our state's agricultural products are the best in the nation by committing to a Buy California program."

Current Five Percent Bid Preference. In 2017, the Legislature passed and the Governor signed AB 822 (Caballero, Chapter 785, Statutes of 2017) which required all California state-run institutions, except public universities, colleges, and school districts, to purchase agricultural products grown in California when the bid or price does not exceed, by more than five percent the lowest bid or price for an agricultural product produced outside of the state and the quality of the produce is comparable.

AB 822 also included a five percent bid preference for agricultural products that were grown outside of the state if that vendor packed and processed those products

in the State of California as long as the product was comparable to the product that was packed or processed outside of the state.

AB 822, exempted public universities, colleges, and school districts from the five percent provision in the bill, however the bill did require these institutions to purchase agricultural products as long as the bid or price did not exceed the bid or price of the agricultural product grown outside of the state and that the quality was again comparable.

AB 822 included language that made it clear that the provisions of the bill were only applicable to a contract to purchase agricultural products for a value that is less than the value of the threshold for supplies and services for which California has obligated itself under the Agreement on Government Procurement of the WTO.

Dormant Commerce Clause. Article I, Section 8 of the Constitution, known as the Commerce Clause provides congress with the power to "regulate commerce with foreign nations, and among the several states, and with the Indian Tribes." From this authorization of Congressional power, Courts have inferred a restriction on State power known as the "dormant Commerce Clause." This doctrine prohibits a State from discriminating against or unduly burdening interstate commerce. According to the Supreme Court, this prohibition on interfering with interstate commerce was rooted in the Framer's concern that economic Balkanization had the potential to doom the new union between the States.

Under the dormant Commerce Clause, courts have typically struck down any state law that expressly mandates differential treatment of in-state and out-of-state competing interests in a way that benefits the economic interest of one state compared to all others. Such laws are considered facially discriminatory, and courts subject them to strict scrutiny.

While the current California five bid preference for agricultural products has not been challenge in court, likely because of its modest limitation, the Supreme Court has struck down similar bid preferences in other states. For example, the Court struck down an Oklahoma law that required 10% of electric utilities' coal purchase to be from in-state suppliers. Similarly the court, struck down an Ohio law that offered a tax credit to fuel sellers for selling ethanol produced in Ohio.

It is unclear if establishing a specific goal for state agencies to meet would violate the Dormant Commerce Clause.

Agreement on Government Procurement of the WTO. The Agreement on Government Procurement of the WTO (GPA Agreement), which California is a party to, is a binding international treaty regulating the conduct of international trade in government procurement markets. It aims to ensure fair, transparent and non-discriminatory conditions of competition for purchases of goods, services, and construction services by the public entities covered by the agreement. It also serves broader purposes of promoting good governance, the efficient management of public resources, and the attainment of best value of money in national procurement series.

However, the rules are not automatically applied to all procurement activities. Coverage schedules play a critical role in determining whether a procurement activity is governed by the Agreement or not. Only those procurement goods, services, construction services of a value exceeding specified threshold values are covered by the Agreement. For example, the current goods threshold is $498,000. This means that any good procurement over $498,000 falls under the rules of the GPA Agreement.

This bill provides that the bill's provisions neither limit nor expand California's obligations under the Agreement on Government Procurement of the World Trade Organization.

Related/Prior Legislation

SB 1308 (Caballero, 2022) requires, as of January 1, 2024, local educational agencies (LEAs) that solicit bids for the purchase of an agricultural product to accept a bid or price for that agricultural product when it is grown in California before accepting a bid or price for a product that is grown outside of California unless the bid or price of the California-grown agricultural product exceeds the lowest bid or price of the domestic agricultural product produced outside the state by 25%. Additionally, prohibits the California Community Colleges, California State University, and all LEAs, and encourages the University of California, to refrain from purchasing agricultural food products grown, packed, or processed nondomestically unless the price of the nondomestic product is more than 25% lower than the bid or price of the domestic product and the quality of the product is comparable to the product grown in California. (Never Heard in the Assembly Education Committee)

AB 822 (Caballero, Chapter 785, Statutes of 2017) required all California state-owned or state-run institutions, except public universities and colleges and school districts, to purchase agricultural products grown in California when the bid or price of the California-grown agricultural product does not exceed, by more than

five percent, the lowest bid or price for an agricultural product produced outside the state and the quality of the produce is comparable.

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

According to the Senate Appropriations Committee, unknown potentially significant fiscal impact to Department of General Services to review state-owned or run institutions' agricultural food products purchasing contracts and submit reports on each institution's progress toward achieving the specified goal of ensuring at least 60 percent of the agricultural food products purchased each calendar year are grown or produced in California (General Fund).

Unknown, ongoing fiscal impact, likely in the millions of dollars, in agricultural food products contracting costs across all impacted state-owned or run institutions, to the extent that the California-grown food products required to be purchased are more expensive than comparable out-of-state products.

Unknown likely significant Prop 98 General Fund fiscal impact for an increase in school districts and public postsecondary institutions agricultural food product contracting costs. A precise amount is unknown because the size of the contracts for school districts and postsecondary institutions could vary significantly throughout the state.

SUPPORT: (Verified 8/12/22)

Growing Coachella Valley (source)
Beaumont Chamber of Commerce
Big Bear Chamber of Commerce
Bizfed Central Valley
California Apple Commission
California Blueberry Commission
California Cattlemen's Association
California Citrus Mutual
California Date Commission
California Farm Bureau Federation
California Farmworker Foundation
California Fresh Fruit Association
Chino Valley Chamber of Commerce
Coachella Valley Water District
Community Alliance with Family Farmers
Corona Chamber of Commerce
Desert Fresh Inc.

Fontana Chamber of Commerce
Greater Coachella Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Greater Ontario Business Council
Hemet San Jacinto Chamber of Commerce
Highland Chamber of Commerce
Inland Empire Economic Partnership
Menifee Valley Chamber of Commerce
Monterey County Farm Bureau
Moreno Valley Chamber of Commerce
Munger Farms
Murrieta/Wildomar Chamber of Commerce
Olive Growers Council of California
Perris Valley Chamber of Commerce
Pomona Chamber of Commerce
Rancho Cucamonga Chamber of Commerce
Redlands Chamber of Commerce
Temecula Chamber of Commerce
Tudor Ranch, Inc.
Twenty-Nine Palms Band of Mission Indians
Upland Chamber of Commerce
Western United Dairymen

OPPOSITION: (Verified 8/12/22)

None received

ARGUMENTS IN SUPPORT: According to the Greater Coachella Valley Chamber of Commerce, "California spends nearly $300 million annually on food purchasing and California's schools are estimated to spend between $500 between $500 and$700 million annually on direct food purchases. That is nearly $1 billion that the state could be directing towards supporting California farmers and their employees by purchasing California grown food. As you are aware, over the last decade plus our local growers have come under intense pressure from regional and international markets. Fueled by inequities in the labor markets and taking advantage of more relaxed regulatory environments, out-of-market growers have increasingly made it difficult for California's growers to be competitive in the global marketplace. AB 778 represents an opportunity to the State of California to reward our growers that are conducting business equitably, and in a manner prescribed by the State, by purchasing produced from our own local markets."

ASSEMBLY FLOOR: 75-0, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Kiley, Maienschein, Voepel

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
8/26/22 15:32:09

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

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THIRD READING

Bill No: AB 847
Author: Quirk (D)
Amended: 8/22/22 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 11-0, 6/6/22
AYES: Roth, Archuleta, Bates, Becker, Dodd, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Melendez, Eggman, Hurtado

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 63-0, 1/20/22 - See last page for vote

SUBJECT: Electrically conductive balloons

SOURCE: San Diego Gas & Electric

DIGEST: This bill requires a person who sells or manufactures foil balloons to ensure that those foil balloons pass a standard test developed by the Institute of Electrical and Electronics Engineers (IEEE) to ensure that the balloon does not cause a fault at high-voltage electric distribution levels. This bill requires foil balloons to become compliant with the provisions of this bill according to a phase-in period, as specified, and prohibits the sale or manufacturing of noncompliant foil balloons after completion of this phase-in period.

Senate Floor Amendments of 8/22/22 further specify the information required to be on the label of foil balloons, adjust the timeline of the phase-in period for compliance with the provisions of this bill, allow this timeline to be tolled under specified conditions, and clarify the penalties that can be issued for violations of these provisions.

ANALYSIS:

Existing law:

1) Requires a person who manufactures a balloon in California that is constructed of electrically conductive material to permanently mark each balloon with a printed statement that warns the consumer about the dangerous risk of fire if the balloon comes in contact with an electrical power line and to mark each balloon with the identity of the manufacturer. (Business & Professions Code (BPC) § 22942(a))

2) Requires a person who sells or distributes a balloon constructed of electrically conductive material that is filled with a gas lighter than air to affix an object of sufficient weight to each balloon or its appurtenance to counter the lift capability of the balloon and to not attach the balloon to an electrically conductive string, tether, or streamer, to a balloon constructed of electrically conductive material, or to any other electrically conductive object. (BPC § 22942(b))

3) States that these requirements do not apply to manned hot air balloons, or to balloons used in governmental or scientific research projects. (BPC § 22942(c))

4) Prohibits any person or group from releasing balloons made of electrically conductive material and filled with a gas lighter than air, outdoors as part of a public or civic event, promotional activity, or product advertisement. Makes a violation punishable by an infraction with a fine of not more than $100, unless the person has twice been convicted and specifies that a third or subsequent conviction is a misdemeanor. States that this prohibition does not apply to manned hot air balloons, or to balloons used in governmental or scientific research projects. (Penal Code §§§ 653.1(a) (b) (c))

This bill:

1) Adds to existing law to require a business that manufactures a foil balloon in California that is constructed of electrically conductive material to comply with all of the following:

    a) Permanently mark each foil balloon with a printed statement that warns the consumer of at least one of the following:

        i) The dangers of releasing balloons which may contact overhead power lines.

ii) The consumer's responsibilities when disposing of foil balloons, if the foil balloon is manufactured to meet the provisions of this bill.

b) Permanently mark each foil balloon with the identity of the manufacturer.
c) Permanently mark each foil balloon that it complies with existing law and the provisions of this bill. Markings prescribed under the final standard by the IEEE shall be considered a suitable mark.

2) Requires that a person who sells, offers for sale, or manufactures for sale any foil balloon in California to ensure that those foil balloons pass a standard test, as determined by an accredited testing facility capable of high-voltage testing.

3) Specifies that this standard test shall be the IEEE 2845 standard when the standard is approved by IEEE. The standard test shall be approved when IEEE does all of the following:

a) Publishes an interim standard.
b) Completes its trial of the interim standard.
c) Publishes the final approved standard, following materially substantive adjustments, if any, to the interim standard.

4) Specifies that this requirement for foil balloons to meet the IEEE standard is subject to the following phase-in period:

a) At least 25 percent of the person's foil balloons shall comply with this section no later than one year from the commencement date.
b) At least 55 percent of the person's foil balloons shall comply with this section no later than two years from the commencement date.
c) At least 80 percent of the person's foil balloons shall comply no later than three years from the commencement date.
d) 100 percent of the person's foil balloons shall comply no later that four years from the commencement date.

5) Prohibits a person from selling, offering for sale, or manufacturing for sale any foil balloon unless the balloon complies with these provisions following the completion of the phase-in period, as specified.

6) Allows for all of the following dates and time periods to be tolled, for 24 months or until the issue is resolved, whichever occurs first, when a serious development, manufacturing, production, or supply chain issue, or force majeure occurs:

a) The commencement date.

b) The phase-in period.
c) The prohibition against selling, offering for sale, and manufacturing for sale of noncompliant foil balloons.

7) Specifies that a serious development, manufacturing, production, or supply chain issue, or force majeure shall be deemed to have occurred if both of the following are satisfied:

a) The issue is outside of the control of the business that develops, manufactures, produces, or sells foil balloons.
b) The issue makes it infeasible to develop, manufacture, produce, or sell foil balloons that otherwise would be subject to the provisions of this bill.

8) Defines the following terms:

a) "Commencement date" means the date on which the IEEE approves the final standard for testing foil balloons at a level of electric distribution voltages without causing an electrical fault and all of the requirements this bill are met, or January 1, 2027, whichever is later.
b) "Foil balloon" means a balloon that is constructed of electrically conductive material.
c) "Infeasible" means incapable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors.
d) "Phase-in period" means the gradual phase in of the restrictions on the sale, offer for sale, and manufacture for sale, in this state, of a foil balloon following the commencement date.
e) "Person" means any individual, association, organization, partnership, business trust, limited liability company, corporation, or other entity.

9) States that a person who violates or attempts to violate the provisions of this bill may be enjoined in any court of competent jurisdiction.

10) Specifies that a person who has violated the provisions of this bill is liable for a civil penalty in the amount of $50 for each foil balloon that was sold, offered for sale, manufactured for sale, or distributed in violation of the provisions of this bill. This civil penalty shall not exceed $2,500 per day for a totality of violations of the provisions of this bill and existing law, in addition to any other penalty established by law. This civil penalty may be assessed and recovered in a civil action brought in any court of competent jurisdiction.

11) Specifies that in assessing the amount of a civil penalty for a violation of this chapter, the court shall consider all of the following:

    a) The nature and extent of the violation.
    b) The number and severity of the violations.
    c) The economic effect of the penalty on the person who violated these provisions.
    d) The person's annual revenue in both balloon sales and total sales.
    e) Whether the person who violated these provisions took good faith measures to comply and when these measures were taken.
    f) The deterrent effect that the imposition of the penalty would have on both the person who these provisions and the regulated community as a whole.
    g) The willfulness of the persons responsible for the violation.

12) Allows for violations of the provisions of this bill to be brought by the Attorney General in the name of the people of the state, by a district attorney, by a city attorney, or by a city prosecutor in a city or city and county having a full-time city prosecutor.

13) Specifies that civil penalties collected pursuant to these provisions shall be paid to the office of the city attorney, city prosecutor, district attorney, or Attorney General, whichever office brought the action.

Background

Mylar balloons, power outages, and fires. Mylar balloons are made with Mylar nylon, a non-biodegradable material, and are typically coated with a metallic finish that conducts electricity. If Mylar balloons are not sufficiently weighted and are released into the air, they have the potential to contact power lines, which can result in power outages and fires. Mylar balloons are commonly released for celebrations, such as birthdays or memorials, and sometimes in mass releases for larger events.

According to the author, "In 2020, Pacific Gas & Electric (PG&E) reported 453 balloon-caused outages affecting over 250,000 customers, a 30% increase from 2019. Every year since 2017, Southern California Edison reported over 1,000 balloon-caused outages, including incidents that resulted in dangerous downed power lines. In 2020, Southern California Edison reported that balloon related outages were responsible for 420,000 hours of interrupted service and affected 1.5 million customers. SDG&E reported that foil balloons cause around 100 power outages each year and an average of 3.6 fires every year from 2015 to 2019. Cal

Fire documented two fires caused by metallic balloons in 2013 and 2015, which burned over 11,000 acres and cost millions of dollars to suppress."

Bans on Mylar balloons. Due to the power outage and fire risk caused by Mylar balloons coming in contact with power lines, other states and jurisdictions have considered bans of Mylar balloons. In 2019, the Massachusetts legislature introduced a bill that would ban all balloons, including metallic foil balloons. In California, the cities of Glendale, Hermosa Beach, Malibu, and others enacted bans or restrictions on the sale of metallic foil balloons. In Glendale, the sale of metallic balloons that are not filled with lighter-than-gas air and thus will not float and of balloons anchored to a pole or other structure is still allowed. A violation is punishable by either a fine of up to $1,000, or up to 180 days of jail time or both. In Hermosa Beach, the sale and the use or distribution of metallic balloons on public property was banned. Malibu banned all balloons, both foil and latex balloons, due to environmental concerns.

Development of non-conductive foil balloons. SDG&E has collaborated with balloon manufacturers and other stakeholders to develop a foil balloon that resists conducting electricity. This non-conductive balloon was tested by placing the prototypes in contact with 12 kilovolt (kV), 21kV, and 33kV power lines under typical grid-like conditions. These tests demonstrate the potential for safer alternatives to traditional metallic foil balloons. This bill seeks to strike a balance between allowing consumers to purchase celebratory foil balloons filled with lighter-than-air gas and the need for foil balloons to be made of safer, minimally conductive materials.

Institute of Electrical and Electronics Engineers' balloon standards. IEEE is a professional association for electronic engineering and electrical engineering and a leading developer of international standards that underpin telecommunications, information technology, and power-generation products and services. According to the Author, the IEEE is "creating a draft trial-use standard to test whether foil balloons are safe for overhead electrical power lines in California and across North America. IEEE engages stakeholders and experts to create industry standards that impact ubiquitous products such as home Wi-Fi networks. The energy industry widely recognizes IEEE. For example, the U.S. Energy Policy Act of 2005 used an IEEE standard (IEEE 1547) as the national standard for the interconnection of distributed generation resources. Stakeholders including California utilities, professional engineers, industry experts, and California Public Utilities Commission (CPUC) staff provide input on these standards. IEEE's draft trial use standard could help identify balloon designs, like SDG&E's, which can withstand overhead power lines without causing a power outage or fire."

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

SUPPORT: (Verified 8/17/22)

San Diego Gas & Electric (source)
California State Association of Electrical Workers
City of Glendale
City of Long Beach
Coalition of California Utility Employees
Edison International and Affiliates, Including Southern California Edison
Pacific Gas and Electric Company
Sempra Energy Utilities
Southern California Public Power Authority

OPPOSITION: (Verified 8/17/22)

None received

ARGUMENTS IN SUPPORT: San Diego Gas & Electric, is the sponsor of this bill and notes, "…a respected industry organization – the Institute of Electrical and Electronics Engineers (IEEE) – is developing a trial use test and performance standard for balloons to measure conductivity of celebratory foil balloons when interacting with overhead electrical lines. This industry standard may be used to measure celebratory foil balloons and determine if the balloons are harmful or benign to the electric grid. AB 847 would require the Office of Energy Infrastructure Safety to adopt regulations using the IEEE performance standard for celebratory foil balloons manufactured and/or sold in the state and would specifically prohibit the sale of celebratory foil balloons that do not pass the standard and as such, could spark a fire or cause outages. Celebratory foil balloons that pass the standard could be manufactured or sold in the state. The successful test results of the non-conductive foil balloons provide a path forward to preserve the festive and celebratory nature that metallic celebratory foil balloons bring while also making California a safer place to live."

Supporters of this bill note that this bill will improve safety conditions for utility workers working on high voltage power lines, improve public safety by decreasing wildfire and power outage risk, and reduce infrastructure damage caused by mylar balloon-related power line ignitions.

ASSEMBLY FLOOR: 63-0, 1/20/22
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Cervantes, Cooley, Cunningham, Daly,

Davies, Flora, Fong, Gabriel, Gallagher, Cristina Garcia, Gipson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Arambula, Burke, Carrillo, Chen, Choi, Cooper, Megan Dahle, Friedman, Eduardo Garcia, Gray, Grayson, Mayes, Voepel

Prepared by: Hannah Frye / B., P. & E.D. /
8/23/22 13:23:13

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

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THIRD READING

Bill No: AB 852
Author: Wood (D)
Amended: 8/22/22 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 11-0, 6/27/22
AYES: Roth, Melendez, Archuleta, Becker, Dodd, Eggman, Hurtado, Leyva, Min, Newman, Pan
NO VOTE RECORDED: Bates, Jones, Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-0, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NO VOTE RECORDED: Bates, Jones

ASSEMBLY FLOOR: 75-0, 5/24/21 - See last page for vote

SUBJECT: Health care practitioners: electronic prescriptions

SOURCE: Author

DIGEST: This bill prohibits a pharmacy, pharmacist, or other practitioner authorized to dispense or furnish a prescription from refusing to dispense or furnish an electronic prescription (e-prescription) solely because the prescription was not submitted via, or is not compatible with, their proprietary software. Permits a pharmacy, pharmacist, or other authorized practitioner to decline to dispense or furnish an e-prescription submitted via software that fails to meet any one of specified criteria, as specified.

Senate Floor Amendments of 8/22/22 strike the urgency clause stating that the bill needs to take effect immediately to protect public health by ensuring exemptions consistent with federal law are in place in California law.

ANALYSIS:

Existing law:

1) Establishes various practice acts in the Business and Professions Code (BPC) governed by various boards within the Department of Consumer Affairs which provide for the licensing and regulation of health care professionals including: physicians and surgeons (under the Medical Practice Act), dentists (under the Dental Practice Act), veterinarians (under the Veterinary Medicine Practice Act); registered nurses, nurse practitioners and certified nurse-midwives (under the Nursing Practice Act); physician assistants (under the Physician Assistant Practice Act); osteopathic physicians and surgeons (under the Osteopathic Medical Practice Act); naturopathic doctors (under the Naturopathic Doctors Act); optometrists (under the Optometry Practice Act); doctors of podiatric medicine (under the Podiatric Act) and; pharmacies, pharmacists and wholesalers of dangerous drugs or devices (under the Pharmacy Law). (BPC § 500 *et seq*.)

2) Defines "prescription" as an oral, written, or electronic transmission order that is both given individually for the person or persons for whom ordered that includes specified information and is issued by an authorized health care practitioner.
(BPC § 4040)

3) Defines "electronic transmission prescription" (e-prescription) as both image and data prescriptions and any prescription order for which a facsimile of the order is received by a pharmacy from a licensed prescriber and any prescription order, other than an electronic image transmission prescription, that is electronically transmitted from a licensed prescriber to a pharmacy. (BPC § 4040)

4) Requires health care practitioners authorized to issue prescriptions to have the capability to issue electronic data transmission prescriptions and requires a pharmacy, pharmacist, or other practitioner authorized to dispense or furnish a prescription to have the capability to receive those electronic transmissions. (BPC § 688)

5) Requires those health care practitioners to issue a prescription as an electronic data transmission prescription, except under certain conditions, including that the electronic prescription is unavailable due to a temporary technological or electrical failure. (BPC § 688)

This bill prohibits a pharmacy, pharmacist, or other practitioner authorized to dispense or furnish a prescription from refusing to dispense or furnish an electronic prescription (e-prescription) solely because the prescription was not submitted via, or is not compatible with, their proprietary software. Permits a pharmacy, pharmacist, or other authorized practitioner to decline to dispense or furnish an e-prescription submitted via software that fails to meet any one of specified criteria, as specified. Makes additional and specified exceptions, as specified.

Background

Prescriptions and E-Prescribing. California implemented mandatory electronic transmission of prescriptions in California in 2018 through AB 2789 (Wood, Chapter 438, Statutes of 2018), which required health care practitioners authorized to have the capability to issue e-prescriptions by January 1, 2020 and required that all prescriptions for controlled substances be transmitted electronically beginning January 1, 2021. This implementation date was delayed one year to January 1, 2022 due to the COVID-19 pandemic.

In 2010, the Drug Enforcement Administration (DEA) revised regulations to provide health care practitioners with the option of issuing e-prescriptions for controlled substances. The regulations also permit pharmacies to receive, dispense, and archive e-prescriptions. Under the DEA rules, prescribing practitioners are still able to write, and manually sign, prescriptions for schedule II, III, IV, and V controlled substances and pharmacies are still able to dispense controlled substances based on those written prescriptions. Oral prescriptions remain valid for schedule III, IV, and V controlled substances. E-prescriptions for controlled substances are only permissible if the electronic prescription and the pharmacy application meet specified DEA requirements, including:

- *Identity proofing of individual prescribing practitioners.* Individual practitioners apply to certain federally approved credential service providers (CSPs) or certification authorities (CAs) to obtain their two-factor authentication credential or digital certificate. The CSP or CA will be required to conduct identity proofing that meets National Institute of Standards and Technology Special Publication 800-63-1 Assurance Level 3. Both in person and remote identity proofing will be acceptable. DEA expects application providers will work with CSPs or CAs to direct practitioners to one or more sources of two-factor authentication credentials that will be interoperable with their applications. Prescribing practitioners may wish to contact their

application provider to determine which CSP or CA the provider recommends the practitioner use. The specifics of each application will determine what kind of two-factor credential will be needed.

- *Two-factor authentication credentials.* According to DEA, two-factor authentication protects the practitioner from misuse of his/her credential by insiders as well as protecting him/her from external threats because the practitioner can retain control of a biometric or hard token. Under the rule, DEA allows the use of two of the following – something you know (a knowledge factor), something you have (a hard token stored separately from the computer being accessed), and something you are (biometric information). A hard token is a cryptographic key stored on a hardware device (e.g., a PDA, cell phone, smart card, USB drive, one-time password device) rather than on a general purpose computer. A hard token is a tangible, physical object possessed by an individual practitioner. The practitioner must retain sole possession of the hard token, where applicable, and must not share the password or other knowledge factor with any other person. The practitioner must not allow any other person to use the token or enter the knowledge factor or other identification means to sign prescriptions for controlled substances. Failure by the practitioner to secure the hard token or knowledge factor may provide a basis for revocation or suspension of the practitioner's DEA registration. Any biometric that meets the criteria DEA has specified may be used as the biometric factor in a two-factor authentication credential used to indicate that prescriptions are ready to be signed and sign controlled substance prescriptions. DEA notes that the use of biometrics as one factor in the two-factor authentication protocol is strictly voluntary, as is all electronic prescribing of controlled substances.

- *Access controls*. Any application that meets DEA's requirements will require access controls to ensure that only individuals legally authorized to sign controlled substance prescriptions are allowed to do so. Setting access controls requires two people. One person must determine which individuals are authorized to sign controlled substance prescriptions and enter those names or assign those names to a role that is allowed to sign controlled substance prescriptions. A DEA registrant must then use his/her two-factor credential to execute the access control list. The access control list will need to be updated when registrants join or leave a practice.

The DEA regulations specify that e-prescriptions for controlled substances may be subject to state laws and regulations but note that if state requirements are more

stringent than DEA's regulations, the state requirements would supersede any less stringent DEA provision.

Related Federal Law and Urgency. In 2018 at the federal level, Congress passed the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) Act. This law created a Medicare requirement for electronic prescribing of controlled substances. This Medicare requirement only applies to Schedule II-V drugs, which is narrower than California statute, and it includes a list of exceptions similar to those in AB 2789. Like AB 2789, the SUPPORT Act's implementation was delayed one year due to the COVID-19 pandemic. Additionally, it should be noted that this bill brings alignment between state law and the federal 2022 Physician Fee Schedule, where the compliance date for this schedule was delayed until January 1, 2023 as a result of the COVID-19 pandemic.

For AB 2789's effective and immediate implementation and compliance, the bill also contains changes requested by the Board of Pharmacy around receipt of electronic data transmission.

Comments

Currently, SureScripts, described above and a proprietary electronically-transmitted prescription software entity that is privately owned by the National Association of Chain Drug Stores (NACDS), National Community Pharmacists Association (NCPA), CVS Health and Express Scripts, is the major player in the prescription software market. SureScripts is a major player in the market. According to the the Office of the National Coordinator for Health Information Technology within the US Department of Health and Human Services, 70% of US physicians used SureScripts's e-prescription network even as far back as 2014 and it is estimated now that the majority, around 90+% of the pharmacy market, uses SureScripts.

Since then, new competitors have been making their way into the e-prescribing software market. At least one new company would require pharmacies to acquire new technology to accept its e-prescriptions. The California Retailers Association and the National Association of Chain Drugs Stores request amendments to "clarify that pharmacies are not required to accept electronic prescriptions from any and all e-prescribing vendors," though they note appreciation for the "language [that] was added to AB 852 to clarify that pharmacies may decline electronic

prescriptions that do not meet industry standards, federal and state laws and privacy requirements…."

However, California law has already required a pharmacy, pharmacist, or other practitioner to have the capability to receive an electronic data transmission prescription on behalf of a patient since 2018 from AB 2789.

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

According to the Senate Appropriations Committee, this bill will result in unknown workload and fiscal impact for the California State Board of Pharmacy to provide education on and incorporate pharmacy law changes into Board-provided continuing education courses. Other workload to the Board would include updating its website and newsletter on any relevant information, as well as to develop the online registration process. Appropriations staff notes that there may also be an indeterminate fiscal impact on enforcement workload to the Board, which will likely vary and depend on the volume of complaints and complexity of any resulting investigations. The Office of Information Services within the Department of Consumer Affairs estimates costs of $16,000 to add online lookup functionality, which may be absorbed through the redirection of existing maintenance resources.

SUPPORT: (Verified 8/19/22)

California Dental Association
California Medical Association
California Podiatric Medical Association
Medical Board of California
University of California

OPPOSITION: (Verified 8/19/22)

California Retailers Association
National Association of Chain Drug Stores

ARGUMENTS IN SUPPORT: Generally, supporters write that the bill will give physicians more flexibility in complying with California's electronic prescribing mandate and exempt low-volume prescribers, prescribers in areas of natural disasters, and prescribers who are granted a waiver based on extraordinary circumstances. These new exceptions also track with the Medicare program. Supporters note this adjustment was made federally to ease the challenges COVID-19 has put on our healthcare system and providers alike and to ensure compliance.

ARGUMENTS IN OPPOSITION: The California Retailers Association and the National Association of Chain Drug Stores are opposed to this bill and note that when AB 2789 was implemented, "it became clear that there were certain issues that needed additional clarification so that processes for e-prescribing would be workable within the parameters of California law (e.g., the transfer of controlled substance prescriptions). Unfortunately, the bill was amended on April 18, 2022, to include new provisions that would effectively require pharmacies to accept electronically transmitted prescriptions that may not be compatible with their existing proprietary software. Such a requirement would force pharmacies to contract with all e-prescribing platforms, even if those platforms are not compatible with a pharmacy's systems. Of particular concern, if enacted with the problematic April 18 amendment language, AB 852 would require pharmacies to accept electronic prescriptions without advance notice and minus the lead time necessary to build out system capabilities both internally and with external system vendors to accommodate this. The process for readying a pharmacy system to accept electronic prescriptions from new vendors is involved and includes activities such as negotiating and implementing a contract with vendors, verifying that all involved parties are operating in compliance with all federal and state requirements related to e-prescribing (including for controlled substance prescriptions) and making pharmacy systems changes to achieve interoperability (which may further involve work with additional vendor(s)). As currently drafted, AB 852 would give pharmacies inadequate time to comply, as the requirements of the legislation would take effect immediately upon enactment."

ASSEMBLY FLOOR: 75-0, 5/24/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bigelow, Flora, Seyarto

Prepared by: Dana Shaker / B., P. & E.D. /
8/23/22 14:48:18

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

SENATE RULES COMMITTEE AB 857
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 857
Author: Kalra (D), et al.
Amended: 8/24/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 6/7/21
AYES: Cortese, Durazo, Laird, Newman
NOES: Ochoa Bogh

SENATE JUDICIARY COMMITTEE: 8-2, 7/13/21
AYES: Umberg, Durazo, Gonzalez, Hertzberg, Laird, Skinner, Stern, Wieckowski
NOES: Borgeas, Jones
NO VOTE RECORDED: Caballero

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 43-21, 5/6/21 - See last page for vote

SUBJECT: Employers: Labor Commissioner: required disclosures

SOURCE: California Rural Legal Assistance Foundation

DIGEST: This bill (1) requires agricultural employers, on March 15, 2023, and thereafter, to provide farmworkers brought to California from abroad under the federal H-2A program with a notice summarizing their workplace rights under state law; (2) directs the Labor Commissioner to prepare the notice and make it available online for employer use; (3) specifies the topics to be included in the notice; and (4) grants the Labor Commissioner discretion to include other explanatory information deemed material and necessary.

Senate Floor Amendments of 8/24/22 delay the required distribution of the new notice to March 15, 2023, and thereafter; specify that the Labor Commissioner is responsible for preparing the notice and making it available to employers; clarify that the notice must be provided to workers when they begin work for a new employer after being transferred by an H-2A or other employer; strike the

requirement that the notice include substantially the same language directed in the bill and instead specifies that it must include information that the Labor Commissioner deems material and necessary with respect to the topic headings; and strikes provisions in the bill related to travel time compensation.

Senate Floor Amendments of 8/25/21 make changes to the travel time compensation provisions, which (1) clarify when travel time compensation begins; (2) define "regular rate of pay"; and (3) remove the statement that the travel time compensation provisions are "declaratory of existing law."

ANALYSIS:

Existing law:

1) Empowers the Labor Commissioner's office, within the Department of Industrial Relations, with ensuring a just day's pay in every workplace in the State and promote economic justice through robust enforcement of labor laws. (Labor Code (LC) §79-107)

2) Establishes the federal H-2A Program for Temporary Agricultural Workers allowing U.S. employers or agents who meet specific regulatory requirements to bring foreign nationals to the United States to fill temporary agricultural jobs. Among other things, existing federal law specifies that as a condition for approval of such a petition, the Secretary of Labor must certify that:

    a) There are not sufficient workers who are able, willing, and qualified to perform the labor or services involved in the petition, and
    b) The employment of the foreign agricultural worker will not adversely affect the wages and working conditions of workers in the U.S. similarly employed. (Title 8 U.S. Code Section §1188)

3) Requires that employers, at the time of hire, provide to each employee a written notice, in the language the employer normally uses to communicate employment-related information to the employee, containing, among other things, the following information:

    a) The rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any overtime rate.
    b) Allowances, if any, including meal or lodging allowances.
    c) The name and physical address of the employer's main office or principal place of business, mailing address, if different, and the telephone number.
    d) The name, address, and telephone number of the employer's workers' compensation insurance carrier. (LC §2810.5)

4) Specifies that an employer shall notify his or her employees in writing of any changes to the information set forth in the notice (per above) within seven calendar days, as specified, and requires the Labor Commissioner to prepare, and make available to employers, a template with the information specified above. (LC §2810.5)

5) Specifies that a tenant who is an agricultural employee residing in employee housing has all rights applicable to a person residing in employee housing, including, among others, the following: (a) the right to file a verified complaint with the Department of Fair Employment and Housing alleging a violation of housing discrimination, or to assert any other right, under the Fair Employment and Housing Act; and (b) any protections for tenants or lessees under the Civil Code or the Labor Code, except as otherwise provided in Section 17031.6. (Health and Safety Code §17008.5)

This bill:

1) Requires the workplace rights notice under LC Section 2810.5, which applies to employers in *all industries*, to also include notifying employees of federal or state emergency or disaster declarations applicable to the county or counties where the employee is employed that may affect their health and safety.

2) Enacts "The California Legal Rights Disclosure Act for H-2A Farmworkers" requiring, on March 15, 2023 and thereafter, employers of H-2A employees to provide, on the first day of work with the original petitioner or transferred employer, as specified, a written notice in Spanish (and English if requested) that includes information on employee rights pursuant to federal and state law.

3) Requires the Labor Commissioner to prepare the notice and include information on specified topic headings that cover various laws including, among others, the following and grants the Commissioner discretion in including information they deemed material and necessary with respect to these topic headings:

    a) Mandatory Wage Rates for the Entire Contract Period.
    b) Overtime Wage Rates.
    c) Required Pay Periods.
    d) Required Rest and Meal Periods.
    e) An Employee's Time Spent While Being Transported by an H-2A Employer From the Employee's Housing to the Employer's Worksite Must Be Compensated if the Employee is Required to Use Employer-Provided Transportation.
    f) Rights of Employees Who Live in Employer Housing.

g) An Employer Shall Note Retaliate Against an Employee for Complaining About Working Conditions or for Organizing Collectively.
h) Itemized Wage Statements for Hourly/Piece-Rate Employees.
i) H-2A Employees Must be Trained to Identify, Prevent, and Report Sexual Harassment to their Employer and to State and Federal Agencies.
j) Toilets and Handwashing Facilities Must Be Accessible, and Drinking Water Must Be Provided at All Worksites.
k) Employer Must Provide Shade and Other Protections from Hot Working Conditions.
l) Employer Must Provide Pesticide Exposure Protections.
m) Employer Must Provide Workplace Safety Training and Have Procedures for Identifying and Correcting Hazards.
n) Transportation of Nine or More Farm Workers in One Vehicle Must be Provided in Inspected, Certified, and Insured "Farm Labor Vehicles".
o) No Employer Charges are Permitted for Necessary Tools or Equipment.
p) Workers' Compensation Benefits, Including Disability Pay and Medical Care Must be Provided for Work-Related Injuries or Illnesses.
q) Employees Must be Trained and Provided Necessary Lighting, Special High-Visibility Clothing, and other Equipment to Ensure Safe Working Conditions for Outdoor Agricultural Work Between Dusk and Dawn (consistent with Cal/OSHA standards that went into effect July 1, 2020).
r) Weeding or Thinning With Short-Handled Hoes is Prohibited When the Hoe is Used in a Stooping, Kneeling, or Squatting Position. Hand Weeding or Thinning is Not Permitted Except in Very Limited Circumstances.

4) Requires the Labor Commissioner to prepare the notice for H-2A employer use, in Spanish and English, and make it available to employers including by posting it online beginning March 1, 2023. This information shall be combined with the notice template required under current law (LC 2810.5).

5) Requires employers to also notify H-2A employees of any federal or state emergency or disaster declaration and recommendations applicable to the county/counties where they are employed that may affect their health and safety, as specified. Prohibits an H-2A employer from retaliating against an H-2A employee for raising questions about the declarations' requirements or recommendations.

6) Requires the Labor Commissioner to revise the template, as necessary, to:

a) Provide, update, or expand useful agency contact information.

b) Correct inconsistencies with current laws or regulations, including, adding, deleting, or changing information because of new developments in case law pertinent to any provision referenced in the template.
c) Add any other information relating to any or all of the topic headings in the template, or revise the headings, if Labor Commissioner deems the additions or revisions material and necessary.
d) Add or delete information because of the enactment or repealing of laws or regulations.

7) Makes several findings and declarations pertaining to H-2A workers and their potential limited knowledge of legal rights and remedies under California law and that neither federal nor state law requires employers to notify them of the existence of either federal or state emergency or disaster declarations.

Background

The federal H-2A program allows U.S. employers or U.S. agents who meet specific regulatory requirements to bring foreign nationals to the United States to fill temporary agricultural jobs. H-2A employers must provide housing at no cost to H-2A workers and to workers in corresponding employment who are not reasonably able to return to their residence within the same day. Employer-provided or secured housing must meet all applicable safety standards. Regarding transportation, employers are required to provide daily transportation between the workers' living quarters and the employer's worksite at no cost to covered workers living in employer-provided housing. Employer-provided transportation must meet all applicable safety standards, be properly insured, and be operated by licensed drivers.

(NOTE: Please see policy committee analysis for more background information on compensation for travel time to and from work.)

Comments

Need for this bill? According to the author, "These H-2A workers are recruited from Mexico and brought to California to work in the agricultural industry. Housing is provided by the employer but the workers have no vehicles or access to public transportation to help them get to the employer's worksites, so they generally must rely on transportation arranged by the employer. Many of these workers also are unaware of their basic state work place protections, such as overtime, meal and rest period breaks, and are some of the most historically exploited workers in the agricultural industry. According to EDD, in recent

correspondence to CRLAF, there were approximately 107 California employers in 2019 that imported more than 23,000 H-2A farm workers."

Related/Prior Legislation

AB 364 (Rodriguez, 2021) extends licensing requirements to foreign labor contractors who recruit or solicit foreign agricultural workers.

SB 1102 (Monning, 2020**)**, was similar to this bill, however, with the most recent amendments, this bill (AB 857) is a scaled back version that instead of being prescriptive on the exact language that needs to be included in the written notice, grants the Labor Commissioner discretion in describing worker rights. SB 1102 was vetoed by Governor Newsom.

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

SUPPORT: (Verified 8/26/22)

California Rural Legal Assistance Foundation (source)
California Alliance for Retired Americans
California Employment Lawyers Association
California Immigrant Policy Center
California Labor Federation
California Teamsters Public Affairs Council
Central Coast Alliance United for a Sustainable Economy
Centro de los Derechos del Migrante
Coalition to Abolish Slavery & Trafficking
Consumer Attorneys of California
Equal Rights Advocates
Farmworker Justice
United Farm Workers
United Food and Commercial Workers, Western States Council
Worksafe

OPPOSITION: (Verified 8/26/22)

Agricultural Council of California
California Association of Winegrape Growers
California Chamber of Commerce
California Citrus Mutual
California Farm Bureau Federation
California Food Producers
California Fresh Fruit Association

California Women for Agriculture
Family Winemakers of California
Ventura County Agricultural Association
Western Growers Association

ARGUMENTS IN SUPPORT: According to this bill's sponsor, California Rural Legal Assistance Foundation, "The fundamental purpose of AB 857 is to provide these vulnerable farm workers with a timely, accurate notice of current laws that lets them readily determine whether their employer is complying with applicable California protections." They note that, "The agreed upon subject headings for the H-2A workers' rights notice, with the accompanying explanatory information drafted by the Labor Commissioner, will provide all H-2A farm workers with a short, comprehensive written summary of California's key labor, housing, health and safety and other laws that exceed federal H-2A protections, and which are not otherwise disclosed to them in writing on their first day of work in Spanish."

ARGUMENTS IN OPPOSITION: A coalition of agricultural employers write, "California's ongoing increases to the minimum wage, overtime rules, nitrate/irrigated land program mandates, loss of crop protection tools, and regulatory restrictions on water supply threaten the survival of our family farms. The COVID-19 pandemic has further compounded the challenges that we face as an industry and has caused economic devastation for far too many. At a time when the industry is struggling most, AB 857 proposes unnecessary and costly changes in law."

ASSEMBLY FLOOR: 43-21, 5/6/21
AYES: Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Holden, Jones-Sawyer, Kalra, Lee, Low, Maienschein, McCarty, Medina, Muratsuchi, Nazarian, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Chen, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Kiley, Lackey, Levine, Mathis, Nguyen, Patterson, Quirk, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Aguiar-Curry, Choi, Cooper, Daly, Frazier, Grayson, Irwin, Mayes, Mullin, O'Donnell, Petrie-Norris, Quirk-Silva, Blanca Rubio, Villapudua

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
8/26/22 15:32:10

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

SENATE RULES COMMITTEE AB 858
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 858
Author: Jones-Sawyer (D), et al.
Amended: 8/22/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 7/5/21
AYES: Cortese, Durazo, Laird, Newman
NOES: Ochoa Bogh

SENATE HEALTH COMMITTEE: 8-1, 7/14/21
AYES: Pan, Eggman, Gonzalez, Hurtado, Leyva, Limón, Rubio, Wiener
NOES: Melendez
NO VOTE RECORDED: Grove, Roth

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/26/21
AYES: Portantino, Bradford, Kamlager, Laird, McGuire
NOES: Bates, Jones

ASSEMBLY FLOOR: 52-15, 6/2/21 - See last page for vote

SUBJECT: Employment: health information technology: clinical practice guidelines: worker rights

SOURCE: California Nurses Association

DIGEST: This bill (1) prohibits a general acute care hospital (GACH) from limiting a worker providing direct patient care from exercising independent clinical judgement, as specified; (2) authorizes a worker who provides direct patient care at a GACH to override health information technology and clinical practice guidelines, as specified; and (3) prohibits a GACH from retaliating against a worker providing direct patient care for overriding health information technology and clinical practice guidelines.

Senate Floor Amendments of 8/22/22:

- Specify that the bill applies to a general acute hospital *employer*.
- Limit the Labor Commissioner's jurisdiction over retaliation complaints or other discrimination to those against an employee who *requests or discusses* overriding health care information technology and clarify that the Labor Commissioner has no jurisdiction to adjudicate claims related to retaliation or discrimination against an employee *taking action* to override health care technology.
- Prohibit the Private Attorneys General Act from applying to violations of the bill's provisions unless otherwise agreed to by the employer and a labor organization in a collective bargaining agreement.

ANALYSIS:

Existing law:

1) Establishes within the Department of Industrial Relations the Office of the Labor Commissioner (LC) to enforce wage and hour law, prevent worker retaliation, and oversee the registration of certain businesses. (Labor Code § 82 et seq.)

2) Establishes the Department of Public Health (DPH) to license and regulate health facilities. (Health & Safety Code § 131000 et seq.)

3) Establishes the Department of Consumer Affairs to provide a safe and fair marketplace through oversight, enforcement, and licensure of professions including vocational and registered nursing by the Board of Registered Nursing (BRN) and of physicians by the Medical Board of California (MBC). (Business & Professions Code § 100 et seq.)

4) Prohibits a health facility from discriminating or retaliating, in any manner, against a patient, employee, member of the medical staff, or other health care worker of the health facility because that person has done either of the following:

    a) Presented a grievance, complaint, or report to the facility, to an entity or agency responsible for accrediting or evaluating the facility, or the medical staff of the facility, or to any other governmental entity; or,

b) Has initiated, participated, or cooperated in an investigation or administrative proceeding related to the quality of care, services, or conditions at the facility that is carried out by an entity or agency responsible for accrediting or evaluating the facility or its medical staff, or governmental entity. (Health & Safety Code § 1278.5)

5) Makes a violation of 4) above subject to a civil penalty of not more than $25,000. (Health & Safety Code § 1278.5 (b) (3))

6) Defines the practice of nursing as those functions, including basic health care, that help people cope with difficulties in daily living that are associated with their actual or potential health or illness problems or the treatment thereof, and that require a substantial amount of scientific knowledge or technical skill, including all of the following:

a) Direct and indirect patient care services that ensure the safety, comfort, personal hygiene, and protection of patients; and, the performance of disease prevention and restorative measures;

b) Direct and indirect patient care services, including, but not limited to, the administration of medications and therapeutic agents, necessary to implement a treatment, disease prevention, or rehabilitative regimen ordered by and within the scope of licensure of a physician, dentist, podiatrist, or clinical psychologist;

c) The performance of skin tests, immunization techniques, and the withdrawal of human blood from veins and arteries; and,

d) Observation of signs and symptoms of illness, reactions to treatment, general behavior, or general physical condition, and (i) determination of whether the signs, symptoms, reactions, behavior, or general appearance exhibit abnormal characteristics, and (ii) implementation, based on observed abnormalities, of appropriate reporting, or referral, or standardized procedures, or changes in treatment regimen in accordance with standardized procedures, or the initiation of emergency procedures. (Business and Professions Code § 2725)

7) Defines “standardized procedures,” for the purpose of 6) above, as meaning either of the following:

a) Policies and protocols developed by a health facility through collaboration among administrators and health professionals including physicians and nurses; and,

b) Policies and protocols developed through collaboration among administrators and health professionals, including physicians and nurses, by an organized health care system. (Business and Professions Code § 2725 (c))

8) Requires the policies and protocols to be subject to any guidelines for standardized procedures that the MBC and the BRN may jointly promulgate. (Business and Professions Code § 2725 (c))

9) Prohibits a person from discharging, discriminating against, retaliating, or taking adverse action against an employee because the employee engaged in conduct protected pursuant to applicable labor statutes, as specified. Protected acts include filing a complaint relating to the employee's rights under the LC's jurisdiction or initiating any action pursuant to a civil claim under the Private Attorneys General Act (PAGA). (Labor Code § 98.6)

10) Authorizes a person who believes they were discharged or otherwise discriminated against in violation of any law under the LC's jurisdiction to file a complaint, as specified, which shall than be investigated pursuant to the LC's established procedures. (Labor Code § 98.7)

11) Provides, under PAGA, that a person may seek recovery of a civil penalty assessed and collected by the Labor and Workforce Development Agency et al., through a private civil action brought by an aggrieved employee on behalf of the employee and other current or former employees pursuant to specified procedures. (Labor Code § 2699 et seq.)

This bill:

1) Prohibits the use of technology from limiting a worker who is providing direct patient care from exercising independent clinical judgment in assessment, evaluation, planning and implementation of care, or from acting as a patient advocate.

2) Authorizes each worker who provides direct patient care at a GACH to override health information technology and clinical practice guidelines if it is in the best interest of the patient to do so in their professional judgment and in accordance with their scope of practice, which includes receiving the approval of the patient's physician, or doctor of podiatric medicine.

3) Prohibits a GACH from retaliating or otherwise discriminating against a worker providing direct patient care who requests to override, or who discusses with other employees or supervisors about overriding, health IT and clinical

practice guidelines. Grants a worker who is subject to retaliation or discrimination the right to file a complaint with the LC against a GACH who retaliates or discriminates against the employee.

4) Limits the LC's jurisdiction with regard to the complaint to retaliation or other discrimination against a worker for requesting to override, or discussing overriding, health information technology, and prohibits the LC from adjudicating claims alleging that a worker suffered retaliation or other discrimination related to taking action to override such technology.

5) Requires each GACH to notify all workers who provide direct patient care (and their representatives, if subject to a collective bargaining agreement) prior to implementing new information technology that materially affects the job of the workers or their patients.

6) Requires each GACH to ensure that its workers that provide direct patient care receive appropriate education or training on how to utilize the new technology and to understand its limitations.

7) Requires GACHs to take into consideration the worker's patient care assignment when determining the appropriate method for training on new technology.

8) Requires GACHs to provide opportunities for workers providing direct patient care in the affected clinical areas to provide input in the implementation processes for new technology impacting patient care delivery.

9) Allows a GACH's professional practice committee representatives to recommend measures to improve the delivery of safe, therapeutic, equitable, and effective care in conjunction with the use of new technology. This bill also them to participate, when feasible, in the implementation processes whenever new technology affecting the delivery of medical or nursing care is under consideration.

10) Requires GACHs to protect patient's private medical information in accordance with the federal and state medical privacy laws when sharing technology in the design, building, and validation process for new technology, as specified.

11) Defines "technology" as scientific hardware or software including algorithms derived from the use of health care-related data, used to achieve a medical or nursing care objective at a GACH.

12) States legislative intent that new technology will continue to permit the exercise of professional clinical judgment in providing patient care and patient advocacy by workers providing direct patient care; that clinical technology is intended to complement, not diminish, skills, judgment, and decision making; and, that professional judgment, not algorithms, will determine the care needed by patient populations or individuals.

13) Prohibits anyone from construing this bill to limit a medical staff's right to establish, in medical staff bylaws, rules, or regulations, clinical criteria and standards to oversee and manage quality assurance, utilization review, and other medical staff activities pursuant to existing law.

14) States that this bill is not intended to prevent hospitals from directing staff to follow nationally recognized quality improvement guidelines or standards of care, including, but not limited to, those used or endorsed by the National Committee for Quality Assurance, the National Quality Forum, the Physician Consortium for Performance Improvement, the Agency for Healthcare Research and Quality, or other organizations recognized or used by the federal Centers for Medicare or Medicaid Services or a department or agency of the State of California or any other commonly accepted standard or guideline for improving consumer health and patient outcomes, unless it is in the patient's best interest to depart from these guidelines.

15) Clarifies that this bill does not allow the override of any physician orders.

16) Prohibits the Private Attorneys General Act from applying to violations of this bill's provisions unless otherwise agreed to by an employer and a labor organization in a collective bargaining agreement.

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

According to the Senate Appropriations Committee, the Department of Industrial Relations indicates that it would incur first-year costs of $3.4 million, and $3.2 annually thereafter, to implement the provisions of this bill.

SUPPORT: (Verified 8/23/22)

California Nurses Association (source)
California Department of Insurance
California Labor Federation, AFL-CIO
Consumer Attorneys of California
United Food and Commercial Workers, Western States Council
United Nurses Associations of California/union of Health Care Professionals

OPPOSITION: (Verified 8/24/22)

Cedars Sinai
Department of Finance
Tenet Healthcare Corporation

ARGUMENTS IN SUPPORT: According to the California Nurses Association:

> This bill will protect professional clinical judgment when providing patient care in hospitals, which is of the utmost importance to nurses.
>
> Technology should be used to complement, not diminish, skills, judgment, and decision-making of healthcare providers. It should not limit independent professional clinical judgment or a healthcare workers ability to act as a patient advocate. Yet our patients are forced to interact with a deeply flawed medical technological system, that among many issues…has been shown to exhibit significant racial bias.
>
> Specifically, AB 858 will allow a healthcare worker providing direct patient care to override health information technology and clinical practice guidelines if, in their professional judgement, and in accordance with their scope of practice, which includes the approval of the patient's physician, if it is in the best interest of the patient to do so.

ARGUMENTS IN OPPOSITION: According to Cedars Sinai:

> AB 858 places hospitals in an almost impossible bind when addressing poor treatment outcomes. If a licensed professional implements a treatment plan that is not based on the best available medical evidence, not only will a hospital be exposed to liability from the medical treatment complications, but the hospital will be forced to choose either the additional liability that comes from not taking appropriate action to correct such dangerous treatment practices or the additional liability of disciplining the professional for their unsafe practices, thereby violating the provisions of AB 858.

ASSEMBLY FLOOR: 52-15, 6/2/21
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Quirk, Ramos, Reyes, Luz Rivas,

Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Stone, Ting, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Mathis, Nguyen, Patterson, Petrie-Norris, Smith, Valladares, Voepel
NO VOTE RECORDED: Arambula, Bigelow, Bryan, Chen, Cooper, Daly, Frazier, Lorena Gonzalez, Irwin, Mayes, Quirk-Silva, Blanca Rubio

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
8/24/22 11:29:35

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 916
Author: Salas (D) and Quirk-Silva (D), et al.
Amended: 8/22/22 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 6-1, 6/13/22
AYES: Wiener, Caballero, Cortese, Skinner, Umberg, Wieckowski
NOES: Bates
NO VOTE RECORDED: McGuire, Ochoa Bogh

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/29/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rules 28.8

ASSEMBLY FLOOR: 61-0, 1/27/22 (Consent) - See last page for vote

SUBJECT: Zoning: bedroom addition

SOURCE: California Rental Housing Association

DIGEST: This bill makes changes to existing law governing accessory dwelling units (ADUs) to allow for additional residential square footage on existing residential properties.

Senate Floor Amendments of 8/22/22 eliminate the increase in ADU height limit allowance.

ANALYSIS:

Existing law:

1) Requires a local agency to ministerially approve, within 60 days, in an area zoned for residential or mixed-use, an application for a building permit to create an ADU and a Junior Accessory Dwelling Unit (JADU) as follows:

a) The ADU or JADU that is within a proposed or existing structure, or the same footprint as the existing structure, provided the space has exterior access from the proposed or existing structure and the side and rear setbacks are sufficient for fire and safety.

b) One detached ADU that is within a proposed or existing structure or the same footprint as the existing structure, along with one JADU, that may be subject to a size limit of 800 square feet, a height limit of 16 feet, and side and rear yard setbacks of four feet.

2) Requires a local agency to ministerially approve, within 60 days, on a lot with a multifamily dwelling:

a) Multiple ADUs within the existing structures that are not used as livable space, if each unit complies with state building standards for dwellings.

b) Two detached ADUs that are subject to a height limit of 16 feet and rear and side yard setbacks of four feet.

This bill prohibits a city or county from adopting or enforcing an ordinance requiring a public hearing for reconfiguring existing space to increase the bedroom count within an existing dwelling unit, as specified.

Background

According to HCD, "ADUs are an innovative, affordable, effective option for adding much needed housing in California." ADUs, also known as accessory apartments, accessory dwellings, mother-in-law units, or granny flats, are additional living spaces on single-family or multifamily lots that have a separate kitchen, bathroom, and exterior access independent of the primary residence. These spaces can either be attached to, or detached from, the primary residence. Local ADU ordinances must meet specified parameters outlined in existing state law.

Local governments may also adopt ordinances for JADUs, which are no more than 500 square feet and are bedrooms in a single-family home that have an entrance into the unit from the main home and an entrance to the outside from the JADU. The JADU must have cooking facilities, including a sink and stove, but is not required to have a bathroom.

Comments

1) *Housing crisis*. California's housing crisis is a half century in the making. Decades of underproduction underscored by exclusionary policies have left housing supply far behind need and costs soaring. California currently has 13 of the 14 least affordable metropolitan areas for homeownership in the nation; it also has the second highest rate of renter households paying more than 30% of their income for housing at 52%. According to the 2022 Statewide Housing Plan, published by HCD, California must plan for more than 2.5 million homes over the next eight-year cycle, and no less than one million of those homes must meet the needs of lower-income households. This represents more than double the housing planned for in the last eight-year cycle. The lack of housing supply is the primary factor underlying California's housing crisis.

   During the 1990's, California averaged only 110,000 new housing units per year. During the early 2000's, production increased significantly, reaching a peak of 212,000 units in 2004 before plummeting to historic lows during the recession. Unfortunately, the downward trend continues; the fact is that California has under-produced housing every single year since 1989.

   As a result, millions of Californians, who are disproportionately lower income and people of color, must make hard decisions about paying for housing at the expense of food, health care, child care, and transportation—one in three households in the state doesn't earn enough money to meet their basic needs.

2) *Encouraging ADU construction.* According to a UC Berkeley study, *Yes in My Backyard: Mobilizing the Market for Secondary Units*, second units are a means to accommodate future growth and encourage infill development in developed neighborhoods. Despite state law requirements for each city in the state to have a ministerial process for approving second units, local regulations often impede development. In response, several bills, including SB 1069 (Wieckowski, 2016), SB 13 (Wieckowski, 2019) and AB 68 (Ting, 2019), have relaxed multiple requirements for the construction and permitting of ADUs and JADUs.

   According to a 2020 UCLA Working Paper, "state ADU and JADU legislation has created the market-feasible potential for nearly 1.5 million new units."

   Since 2013, the number of permitted ADUs increased from 799 to 12,813 in 2020, for a total of almost 44,000 ADUs permitted statewide. With localities across the state facing large regional housing needs allocations for the sixth

housing element cycle, ADUs and JADUs represent a key tool in the housing production toolbox.

1) *Maximizing space.* Another way to facilitate more housing is to maximize the utilization of existing space within residential units. This approach has gained heightened importance during the COVID-19 pandemic, due to both health concerns and the need for social distancing, as well as the increased time spent at home.

   This bill facilitates the improved utilization of existing space by prohibiting public hearings in the instance where the space within existing units is reconfigured to add bedrooms. This prohibition would not affect other requirements – such as bedroom-based impact fees and parking requirements, nor with the requirement to comply with building standards. However, it would remove bureaucratic and time hurdles from making changes within an existing unit.

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

SUPPORT: (Verified 8/22/22)

California Rental Housing Association (source)
Apartment Association of Greater Los Angeles
Apartment Association of Orange County
Berkeley Property Owner's Association
California Apartment Association
California YIMBY
Casita Coalition
City of Santa Monica
City of Santa Rosa
East Bay Rental Housing Association
Nor Cal Rental Property Association
North Valley Property Owners Association
San Francisco Bay Area Planning & Urban Research Association
Santa Barbara Rental Property Association
Small Property Owners of San Francisco
Southern California Rental Housing Association

OPPOSITION: (Verified 8/22/22)

Association of California Cities - Orange County
California Association of Realtors

City of Beverly Hills
City of Garden Grove
City of Pleasanton
City of Rancho Palos Verdes
City of Santa Clarita
City of Thousand Oaks
Mission Street Neighbors
San Francisco Land Use Coalition
South Bay Cities Council of Governments
One individual

ARGUMENTS IN SUPPORT: According to the author, "We are facing a housing crisis in California with both a lack of affordable housing and a pandemic of homelessness, especially for low- and moderate-income communities and communities of color. ADU's enable the creation of easy-to-build housing on land that is already utilized for housing, thus bringing down the cost of creating new housing – an opportunity to build for the "missing middle". It is critical that we ensure that ADU creation is streamlined and that more bedrooms can be created in the state without being held up by the public hearing process. Reallocating underutilized space for legal bedrooms, will increase density thus bringing down the average price per occupant in a dwelling. Furthermore, by repurposing habitable space in a manner that is more efficient will reduce the cost of creating more housing."

ARGUMENTS IN OPPOSITION: Written opposition received came from a few cities, local organizations, and community associations concerned about local control and opposing the increased height limit for ADUs. A letter from the City of Beverly Hills stated, "AB 916 goes too far to inhibit the City's ability to review projects that add bedrooms to existing residential dwellings."

ASSEMBLY FLOOR: 61-0, 1/27/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Cervantes, Choi, Cooley, Cooper, Cunningham, Daly, Davies, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Gipson, Grayson, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Ward, Wicks, Wood, Rendon

NO VOTE RECORDED: Mia Bonta, Carrillo, Chen, Megan Dahle, Flora, Eduardo Garcia, Gray, Irwin, Maienschein, Mayes, Blanca Rubio, Villapudua, Voepel, Waldron, Akilah Weber

Prepared by: Mehgie Tabar / HOUSING / (916) 651-4124
8/23/22 13:23:16

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

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THIRD READING

Bill No: AB 923
Author: Ramos (D), et al.
Amended: 8/22/22 in Senate
Vote: 21

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

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 76-0, 1/31/22 - See last page for vote

SUBJECT: Government-to-Government Consultation Act: state-tribal consultation: training

SOURCE: Morongo Band of Mission Indians

DIGEST: This bill encourages the state and its agencies to consult on a government-to-government basis with federally recognized and, as specified, with nonfederally recognized tribes, in order to allow tribal officials the opportunity to provide meaningful input in the development of policies, processes, programs, and projects that have tribal implications. Additionally, this bill requires designated state officials to complete specified training that includes training elements educating on tribal sovereignty, jurisdiction, and form.

Senate Floor Amendments of 8/22/22 remove the requirement that the Department of Human Resources (CalHR) shall consult with tribal legal services organizations having 10 or more years experience in matters relating to California tribes in developing the training established in the bill. Instead, the bill requires CalHR to consult with tribal governments.

ANALYSIS:

Existing law:

1) Encourages and authorizes all state agencies to cooperate with federally recognized California tribes on matters of economic development and improvement of the tribes, including providing information on programs available to assist Indian tribes, providing technical assistance on the preparation of grants and applications for public and private funds, and conducting meetings and workshops.

2) Establishes the Office of the Tribal Advisor and makes the Tribal Advisor responsible for overseeing and implementing effective government-to-government consultation between the Governor's Administration and California Tribes on policies that affect California tribal communities.

3) Provides, under Executive Order N-15-19, for the Tribal Advisor and the Administration to engage in government-to-government consultation with California Native American tribes regarding policies that may affect tribal communities.

This bill:

1) Encourages the state and its agencies to consult on a government-to-government basis with federally recognized tribes, and with nonfederally recognized tribes and tribal organizations, as appropriate, in order to allow tribal officials the opportunity to provide meaningful input in the development of policies, processes, programs, and projects that have tribal implications.

2) Encourages, the state and its agencies, at the request of a federally recognized tribe and with nonfederally recognized tribes and tribal organizations, as appropriate, to consult, within 60 days of the request, on a government-to-government basis in order to allow tribal officials the opportunity to provide meaningful input in the development of policies, processes, programs, and projects that have tribal implications.

3) Provides that each agency director is encouraged to consider the need for tribal consultation before approving an agency action.

4) Provides that within the executive branch the following officials shall have authority to represent the state in tribal government-to-government consultation:

a) The Governor.
b) The Attorney General.
c) Each constitutional officer and statewide elected official.
d) The director of each state agency and department.
e) The chair and the executive officer of each state commission and task force.
f) The chief counsel of any state agency.

5) Authorizes any of the above officials to formally designate another agency official to conduct preliminary tribal consultations, and each designated official shall have the authority to act on behalf of the state during a government-to-government consultation.

6) Requires, on or before June 1, 2024, CalHR, in consultation with state entities experienced in tribal issues and with tribal, to develop a training regarding required elements of training on government-to-government consultations for the officials described above.

7) Requires the training to include details on government-to-government consultation, including, but not limited to, all of the following elements:

a) Timing and notice.
b) Form, including, but not limited to, in-person meetings, video conferences, teleconferences, and written correspondence.
c) Principles.
d) Resolution.
e) Tribal Sovereignty.
f) Sacred sites.
g) Changes or updates to state law that affect California tribes and that would require government-to-government consultation.

8) Requires all of the officials listed in this bill to complete the training on government-to-government consultation by January 1, 2025, or, for officials appointed after that date, within six months of their appointment or confirmation of appointment, whichever is later. Each official shall retake the training annually.

9) Defines "tribal implications" to mean agency actions that impact one or more federally recognized tribes or nonfederally recognized tribes or tribal organizations, the government-to-government relationship between the state and federally recognized tribes, or the distribution of power and responsibilities between the state and federally recognized tribes.

Comments

Purpose of the Bill. According to the author's office, "on June 18, 2019, Governor Newsom reaffirmed the State's commitment, requiring the Governor's Tribal Advisor and the Administration to engage in government-to-government consultation with California Native American Tribes. This consultation has been vitally important to the state and the tribes in California in providing necessary information during crises and developing policies reflective of the needs of tribes and their members. AB 923 will require heads of state agencies to be properly trained in government-to-government consultation with tribal governments and consider consultation with tribes in their policymaking."

State Action and Executive Orders. On September 19, 2011, Governor Brown issued Executive Order B-10-11, which established the Office of the Governor's Tribal advisor to oversee and implement effective government-to-government consultation between the Administration and Tribes on polices that affect California tribal communities. The Office of the Tribal Advisor was formally placed in statute by AB 880 (Gray, Chapter 801, Statutes of 2018).

On June 18, 2019, Governor Newsom issued Executive Order N-15-19, which acknowledges and apologizes on behalf of the state for the historical "violence, exploitation, dispossession and the attempted destruction of tribal communities" which dislocated California Native Americans from their ancestral land and sacred practices and established the California Truth and Healing Council. In addition, Executive Order N-15-19 reaffirms and incorporates by reference the principles of government-to-government engagements.

On September 25, 2020, Governor Newsom released a *Statement of Administration Policy on Native American Ancestral Lands* to encourage State entities to seek opportunities to support California tribes' co-management of and access to natural lands that are within a California tribe's ancestral land and under the ownership or control of the State of California, and to work cooperatively with California tribes that are interested in acquiring natural lands in excess of State needs.

Related/Prior Legislation

AB 880 (Gray, Chapter 801, Statutes of 2018) established, among other things, the Office of the Tribal Advisor.

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

According to the Senate Appropriations Committee, unknown, potentially significant General Fund costs to CalHR to develop a training regarding required

elements on government-to-government consultations and deliver that training to each specified official. Actual costs for CalHR to develop and deliver the training will depend on, among other things, the curriculum and number of participants that would be required to take the training.

The Department of Justice estimates General Fund costs of $386,000 in Fiscal Year 2022-23 and $657,000 ongoing for additional staff workload related to providing advice to outside agencies on tribal issues, the diversity of tribal interest, and other legal assistance.

SUPPORT: (Verified 8/11/22)

Morongo Band of Mission Indians (source)
California Tribal Business Alliance
Habematolel Pomo of Upper Lake
Northern California Recycling Association
Resolute
San Manuel Band of Mission Indians
Tachi Yokut Tribe
Yocha Dehe Wintun Nation
Yurok Tribe

OPPOSITION: (Verified 8/11/22)

None received

ARGUMENTS IN SUPPORT: According to the San Manuel Band of Mission Indians, "tribes are still often left out of conversations held by departments and agencies on policies that affect Indian tribes and their citizens. Furthermore, tribes often have difficulty accessing vital information as situations or crises develop, which has presented difficult challenges through the COVID-19 pandemic, as well as during various wildfire incidents over the past several seasons. These consultations will improve policymaking and policy outcomes for all citizens of our state and for this reason we strongly support AB 923."

ASSEMBLY FLOOR: 76-0, 1/31/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley,

Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
8/23/22 13:23:16

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

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THIRD READING

Bill No: AB 937
Author: Carrillo (D), Kalra (D) and Santiago (D), et al.
Amended: 8/23/22 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-1, 7/13/21
AYES: Bradford, Durazo, Kamlager, Skinner
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/26/21
AYES: Portantino, Bradford, Kamlager, Laird, McGuire
NOES: Bates, Jones

ASSEMBLY FLOOR: 42-21, 6/3/21 - See last page for vote

SUBJECT: Immigration enforcement

SOURCE: Asian Americans Advancing Justice – Asian Law Caucus

DIGEST: This bill eliminates the existing ability under the Values Act for law enforcement agencies to cooperate with federal immigration authorities by giving them notification of release for inmates or facilitating inmate transfers and to prohibit all state and local agencies from assisting, in any manner, the detention, deportation, interrogation, of an individual by immigration enforcement.

Senate Floor Amendments of 8/23/22:

1) Provide that when a person is found suitable for release, the Board of Parole Hearings (BPH) shall consider the following before determining whether to notify Immigration and Customs Enforcement (ICE) about the person's release:

   a) Family and community ties in the US, including disfavoring notifying ICE if the person has family members in the US or relationships with community based organizations.

b) Number of years living in the US if they have had residence in the US for at least five years.
c) Disfavoring notifying ICE if there is evidence of the individual's rehabilitation and success for reentry.

2) Provide that a state or local agency shall not respond to an ICE request if the person was identified as a member of a vulnerable population, as defined.

3) Repeal the provisions requiring CDCR to identify persons as undocumented persons within 90 days of assuming custody.

ANALYSIS:

Existing federal law:

1) Provides that any authorized immigration officer may at any time issue Immigration Detainer-Notice of Action, to any other federal, state, or local law enforcement agency. A detainer serves to advise another law enforcement agency that the Department of Homeland Security (DHS) seeks custody of an alien presently in the custody of that agency, for the purpose of arresting and removing the alien. The detainer is a request that such agency advise the DHS, prior to release of the alien, in order for the DHS to arrange to assume custody, in situations when gaining immediate physical custody is either impracticable or impossible. (8 CFR Section 287.7(a).)

2) States that upon a determination by the DHS to issue a detainer for an alien not otherwise detained by a criminal justice agency, such agency shall maintain custody of the alien for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays in order to permit assumption of custody by the DHS. (8 CFR Section 287.7(d).)

3) Authorizes the Secretary of Homeland Security under the 287(g) program to enter into agreements that delegate immigration powers to local police. The negotiated agreements between ICE and the local police are documented in memorandum of agreements (MOAs). (8 U.S.C. Section 1357(g).)

4) States that notwithstanding any other provision of Federal, State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the

citizenship or immigration status, lawful or unlawful, of any individual. (8 U.S.C. 1373 (a).)

5) States that notwithstanding any other provision of Federal, State, or local law, no State or local government entity may be prohibited, or in any way restricted, from sending to or receiving from the Immigration and Naturalization Service information regarding the immigration status, lawful or unlawful, of an alien in the United States. (8 U.S.C. 1644.)

Existing state law:

1) Defines "immigration hold" as "an immigration detainer issued by an authorized immigration officer, pursuant to specified regulations, that requests that the law enforcement official to maintain custody of the individual for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays, and to advise the authorized immigration officer prior to the release of that individual." (Government Code § 7282 (c).)

2) Defines "Notification request" as an Immigration and Customs Enforcement request that a local law enforcement agency inform ICE of the release date and time in advance of the public of an individual in its custody and includes, but is not limited to, DHS Form I-247N. (Government Code § 7283 (f).)

3) Defines "Transfer request" as an Immigration and Customs Enforcement request that a local law enforcement agency facilitate the transfer of an individual in its custody to ICE, and includes, but is not limited to, DHS Form I-247X. (Government Code § 7283 (f).)

4) Prohibits law enforcement agencies (including school police and security departments) from using resources to investigate, interrogate, detain, detect, or arrest people for immigration enforcement purposes. These provisions are commonly known as the Values Act. Restrictions include:

   a) Inquiring into an individual's immigration status;
   b) Detaining a person based on a hold request from ICE;
   c) Providing information regarding a person’s release date or responding to requests for notification by providing release dates or other information unless that information is available to the public;

d) Providing personal information, as specified, including, but not limited to, name, social security number, home or work addresses, unless that information is "available to the public;"
e) Arresting a person based on a civil immigration warrant;
f) Participating in border patrol activities, including warrantless searches;
g) Performing the functions of an immigration agent whether through agreements known as 287(g) agreements, or any program that deputizes police as immigration agents;
h) Using ICE agents as interpreters;
i) Transfer an individual to immigration authorities unless authorized by a judicial warrant or judicial probable cause determination, or except as otherwise specified;
j) Providing office space exclusively for immigration authorities in a city or county law enforcement facility; and,
k) Entering into a contract, after June 15, 2017, with the federal government to house or detain adult or minor non-citizens in a locked detention facility for purposes of immigration custody. (Government Code § 7284.6(a).)

5) Describes the circumstances under which a law enforcement agency has discretion to respond to transfer and notification requests from immigration authorities. These provisions are known as the TRUST Act. Law enforcement agencies cannot honor transfer and notification requests unless one of the following apply:

a) The individual has been convicted of a serious or violent felony, as specified;
b) The individual has been convicted of any felony which is punishable by imprisonment in state prison;
c) The individual has been convicted within the last five years of a misdemeanor for a crime that is punishable either as a felony or misdemeanor (a wobbler);
d) The individual has been convicted within the past 15 years for any one of a list of specified felonies;
e) The individual is a current registrant on the California Sex and Arson Registry;
f) The individual has been convicted of a federal crime that meets the definition of an aggravated felony as specified in the federal Immigration and Nationality Act; or,
g) The individual is identified by ICE as the subject of an outstanding federal felony arrest warrant for any federal crime; or,

h) The individual is arrested on a charge involving a serious or violent felony, as specified, or a felony that is punishable by imprisonment in state prison, and a magistrate makes a finding of probable cause as to that charge. (Government Code § 7282.5.)

6) Provides that law enforcement agencies are able to participate in joint taskforces with the federal government only if the primary purpose of the joint task force is not immigration enforcement. Participating agencies must annually report to the California Department of Justice (DOJ) if there were immigration arrests as a result of task force operations. (Government Code, § 7284.6 (b) & (c).)

7) Allows law enforcement agencies to respond to a request from immigration authorities for information about a person's criminal history. (Government Code § 7284.6 (b)(2).)

8) Allows law enforcement agencies to make inquiries into information necessary to certify an individual who has been identified as a potential crime or trafficking victim for a T or U Visa. (Government Code § 7284.6 (b)(4).)

9) Allows law enforcement agencies to give immigration authorities access to interview an individual in agency custody if such access complies with the TRUTH Act. (Government Code, § 7284.6 (b)(5).)

This bill:

1) Specifies that a state or local agency shall not arrest or assist with the arrest, confinement, detention, transfer, interrogation, or deportation of an individual for an immigration enforcement purpose in any manner including, but not limited to, by notifying another agency or subcontractor thereof regarding the release date and time of an individual, releasing or transferring an individual into the custody of another agency or subcontractor thereof, or disclosing personal information, as specified, about an individual, including, but not limited to, an individual's date of birth, work address, home address, or parole or probation check in date and time to another agency or subcontractor thereof.

2) States that the prohibition described above shall apply notwithstanding any contrary provisions in the California Values Act, as specified, which allowed law enforcement to cooperate with immigration authorities in limited circumstances.

3) Specifies that this bill does not prohibit compliance with a criminal judicial warrant.

4) Prohibits a state or local agency or court from using immigration status as a factor to deny or to recommend denial of probation or participation in any diversion, rehabilitation, mental health program, or placement in a credit-earning program or class, or to determine custodial classification level, to deny mandatory supervision, or to lengthen the portion of supervision served in custody.

5) Defines the following terms for purposes of this bill:

   a) "Immigration enforcement" includes "any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, and also includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person's presence in, entry, or reentry to, or employment in, the United States."
   b) "State or local agency" includes, but is not limited to, "local and state law enforcement agencies, parole or probation agencies, the Department of Juvenile Justice, and the Department of Corrections and Rehabilitation."
   c) "Transfer" includes "custodial transfers, informal transfers in which a person's arrest is facilitated through the physical hand-off of that person in a nonpublic area of the state or local agency, or any coordination between the state or local agency and the receiving agency about an individual's release to effectuate an arrest for immigration enforcement purposes upon or following their release from the state or local agency's custody."

6) States that in addition to any other sanctions, penalties, or remedies provided by law, a person may bring an action for equitable or declaratory relief in a court of competent jurisdiction against a state or local agency or state or local official that violates the provisions of this bill.

7) Specifies that a state or local agency or official that violates the provisions of this bill is also liable for actual and general damages and reasonable attorney's fees.

8) Repeals statutory provisions directing California Department of Corrections and Rehabilitation to implement and maintain procedures to identify inmates

serving terms in state prison who are undocumented aliens subject to deportation.

9) Repeals statutory provisions directing CDCR and California Youth Authority to implement and maintain procedures to identify, within 90 days of assuming custody, inmates who are undocumented felons subject to deportation and refer them to the United States Immigration and Naturalization Service.

10) Repeals statutory provisions directing CDCR to cooperate with the United States Immigration and Naturalization Service by providing the use of prison facilities, transportation, and general support, as needed, for the purposes of conducting and expediting deportation hearings and subsequent placement of deportation holds on undocumented aliens who are incarcerated in state prison.

11) Repeals the statutory directive to include place of birth (state or country)-in state or local criminal offender record information systems.

12) Makes uncodified Legislative findings and declarations.

Background

According to the author:

> Existing law does not prohibit the California Department of Corrections and Rehabilitation or local law enforcement in many cases to transfer individuals to the custody of Immigration and Customs Enforcement after they have completed their sentence or have otherwise been deemed eligible for release if they lack lawful status in the United States or if immigration authorities have deemed that their legal status can be revoked as a result of their criminal history. This effectively serves as an additional punishment on top of the one that was handed down in the criminal justice system, and the immigration enforcement system can result in indefinite detention where individuals have no right to habeas corpus or legal representation. When an individual is transferred to the custody of immigration authorities, their record of rehabilitation, their stable reentry plans, and their network of community support are disregarded. Federal immigration detention centers have been documented to have a record of abuse and neglect of detainees, and these detention centers are beyond the oversight and accountability of the state of California.

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

According to the Senate Appropriations Committee:

- *Department of Corrections and Rehabilitation (CDCR):* The department reports ongoing annual costs of $22 million to supervise up to 2,553 individuals on parole who, under existing law, would have been transferred into federal custody upon release and deported. Additionally, CDCR anticipates one-time costs of $150,000 to update information technology systems, regulations, policies and procedures, and training related to the changes proposed by this measure. Costs to the department would be offset by an unknown amount from ongoing savings from reduced workload, as CDCR no longer would be required to contact immigration authorities about release date notices and changes, set up interviews with incarcerated persons, verify the status of immigration detainer holds, or arrange pick up for individuals upon release. (General Fund)

- *Counties:* Unknown, potentially-major costs in the millions of dollars annually for increased post-release community supervision (PRCS) caseloads to county probation departments to supervise individuals after a prison term for a non-serious, non-violent, or non-sexual offense who, under existing law, would have been transferred into federal custody upon release and deported. (General Fund*)

- *Courts:* Unknown, potentially-significant workload cost pressures to the courts to adjudicate alleged violations of this measure. While the superior courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to increase the amount appropriated to backfill for trial court operations. For illustrative purposes, the Budget Act of 2021 allocates $118.3 million from the General Fund for insufficient revenue for trial court operations. (General Fund**)

- *Department of Justice:* Minor one-time costs to modify the Automated Criminal History System to make an individual's place of birth an optional field when creating new record. (General Fund)

  *Proposition 30 (2012) exempts the state from mandate reimbursements to local jurisdictions for realigned responsibilities for "Public Safety

Services," including the managing of local jails and the provision of services for and supervision of youth and adults who have committed crimes. The constitutional amendment, however, provides that legislation enacted after September 30, 2012, that has an overall effect of increasing the costs already borne by a local agency for public safety services transferred by the 2011 Realignment Legislation apply to local agencies only to the extent that the state provides annual funding for the costs increase. If the local costs resulting from this measure are determined to be included within the realigned responsibilities specified in Proposition 30, the local agency would not be obligated to provide the level of service required by this bill above the level for which funding is provided by the state. The provisions of this bill may lead to the additional appropriation of funds to obtain local compliance, resulting in cost pressure to the General Fund. **Trial Court Trust Fund

SUPPORT: (Verified 8/19/22)

Asian Americans Advancing Justice – Asian Law Caucus (source)
ACLU California Action
Alliance for Boys and Men of Color
Alliance of Californians for Community Empowerment Action
Alliance San Diego
American Friends Service Committee
Anti-Defamation League
API Equality-LA
Arts for Healing and Justice Network
Asian Health Services
Asian Pacific Islander Reentry thru Inclusion, Support, & Empowerment
Asian Prisoner Support Committee
Asian Solidarity Collective
Berkeley Society of Friends
Buen Vecino
California Attorneys for Criminal Justice
California Coalition for Women Prisoners
California Commission on Asian and Pacific Islander American Affairs
California Federation of Teachers AFL-CIO
California Health+ Advocates
California Immigrant Policy Center
California Labor Federation, AFL-CIO
California League of United Latin American Citizens

California Nurses Association
California Pan - Ethnic Health Network
California Peninsula-south Bay Chapter, Center for Common Ground
California Public Defenders Association
California- Stop Terrorism and Oppression by Police Coalition
Catholic Charities of the Diocese of Stockton
Center for Common Ground
Center for Empowering Refugees and Immigrants
Center for Immigration Law and Policy at UCLA Law
Central Valley Immigrant Integration Collaborative
Centro Legal De LA Raza
Clergy and Laity United for Economic Justice
Communities United for Restorative Youth Justice
Community Bridges
Contra Costa Immigrant Rights Alliance
County of San Diego
Critical Resistance
Cure California
Defy Ventures
Democratic Club of the Conejo Valley
Democratic Party of Contra Costa County
Democratic Party of the San Fernando Valley
Democratic Woman's Club of San Diego County
Dolores Street Community Services
Drug Policy Alliance
Ella Baker Center for Human Rights
Eviction Defense Collaborative Union
Feel the Bern Democratic Club, Orange County
Freedom for Immigrants
Friends Committee on Legislation of California
Grip Training Institute/insight-out
Having Our Say Coalition
Human Rights Watch
Ice Out of Marin
Ice Out of Stockton
Immigrant Legal Resource Center
Inland Coalition for Immigrant Justice
Interfaith Movement for Human Integrity
John Burton Advocates for Youth
Kehilla Community Synagogue

Lakeshore Avenue Baptist Church
Law Enforcement Action Partnership
League of Women Voters of California
Legal Services for Prisoners with Children
Long Beach Area Peace Network
Long Beach Immigrant Rights Coalition
Long Beach Southeast Asian Anti-deportation Collective
Los Angeles County District Attorney's Office
Military Families Speak Out
Mixteco Indigena Community Organizing Project
NARAL Pro-choice California
National Association of Social Workers, California Chapter
National Institute for Criminal Justice Reform
Nikkei Progressives
Oakland Privacy
Orange County Communities Organized for Responsible Development
Orange County Equality Coalition
Orange County Peace Coalition
Orange County Rapid Response Network
Pillars of the Community
Planned Parenthood Advocates Pasadena and San Gabriel Valley
Re:store Justice
Resilience Orange County
San Francisco District Attorney's Office
San Francisco Public Defender
Santa Clara County Democratic Party
SEIU California State Council
Services, Immigrant Rights and Education Network
Silicon Valley De-bug
Simi Valley Democratic Club
Stonewall Democratic Club
Success Stories Program
Surj Contra Costa County CA
The Multicultural Center of Marin
The Resistance Northridge-indivisible
The Transformative In-prison Workgroup
The Translatin@ Coalition
Tsuru for Solidarity
UCSF White Coats for Black Lives
University of California Student Association

Ventura County Clergy and Laity United for Economic Justice
Vietrise
Voices for Progress Education Fund
We the People - San Diego
Women for American Values and Ethics
Youth Justice Coalition

OPPOSITION: (Verified 8/19/22)

Arcadia Police Officers Association
Burbank Police Officers' Association
California Association of Highway Patrolmen
California Coalition of School Safety Professionals
California Police Chiefs Association
California State Sheriffs' Association
City of Clovis
City of El Centro
City of Folsom
Claremont Police Officers Association
Corona Police Officers Association
Culver City Police Officers' Association
Fullerton Police Officers' Association
Inglewood Police Officers Association
Los Angeles School Police Officers Association
Newport Beach Police Association
Palos Verdes Police Officers Association
Peace Officers Research Association of California
Placer County Deputy Sheriffs' Association
Pomona Police Officer Association
Riverside Police Officers Association
Riverside Sheriffs' Association
Santa Ana Police Officers Association
Upland Police Officers Association

ASSEMBLY FLOOR: 42-21, 6/3/21
AYES: Aguiar-Curry, Bennett, Berman, Bloom, Bryan, Burke, Calderon, Carrillo, Cervantes, Chiu, Daly, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Jones-Sawyer, Kalra, Lee, Levine, McCarty, Medina, Mullin, O'Donnell, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wood, Rendon

NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Kiley, Lackey, Mathis, Muratsuchi, Nguyen, Patterson, Petrie-Norris, Seyarto, Smith, Valladares, Voepel

NO VOTE RECORDED: Arambula, Bauer-Kahan, Boerner Horvath, Chau, Cooley, Cooper, Frazier, Irwin, Low, Maienschein, Mayes, Nazarian, Blanca Rubio, Salas, Villapudua, Waldron

Prepared by: Mary Kennedy / PUB. S. /
8/24/22 19:32:49

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

SENATE RULES COMMITTEE AB 984
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 984
Author: Wilson, et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 13-0, 6/24/21
AYES: Gonzalez, Allen, Archuleta, Becker, Cortese, Dodd, McGuire, Min, Rubio, Skinner, Umberg, Wieckowski, Wilk
NO VOTE RECORDED: Bates, Dahle, Melendez, Newman

SENATE JUDICIARY COMMITTEE: 9-0, 7/13/21
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Skinner, Stern
NO VOTE RECORDED: Borgeas, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 59-2, 6/1/21 - See last page for vote

SUBJECT: Vehicle identification and registration: alternative devices

SOURCE: Reviver

DIGEST: This bill requires the Department of Motor Vehicles (DMV) to establish a program authorizing an entity to issue devices as alternatives to the conventional license plates, stickers, tabs and registration cards, subject to approval of the California Highway Patrol (CHP).

Senate Floor Amendments of 8/2/22 provide that vehicle location technology in passenger vehicles being used solely for personal use shall be capable of being manually disabled by a driver while in the vehicle.

Senate Floor Amendments of 9/3/21 strengthen the privacy provisions by including a requirement that all vehicle operators are aware of the GPS capability of the

device. They also revise provisions dealing with enforcement of the tracking of employees using these devices by clarifying that employees can file complaints about unlawful tracking with the Labor Commissioner. Penalties are $250 per employee per violation for an initial violation and $1,000 per employee for subsequent violations.

ANALYSIS:

Existing law:

1) Requires DMV to issue two reflectorized license plates for vehicles and specifies that:

   a) Each plate must display the word "California," the vehicle's registration number, and the year for which the vehicle's registration is valid; and,

   b) For license plates other than motorcycles, the license must be rectangular in shape, 12 inches in length, and six inches in width.

2) Prohibits DMV from contracting with any non-governmental entity for purposes of manufacturing license plates.

3) Authorizes DMV to issue one or more stickers, tabs, or other suitable devices in lieu of a license plate as specified.

4) Authorizes DMV to conduct a pilot program to evaluate alternatives to vehicle license plates, registration stickers, and registration cards until no later than January 1, 2020, and requires DMV to report on the results of the pilot program to the Legislature no later than July 1, 2020.

5) Requires the CHP to approve any DMV-selected alternative to license plates or registration stickers and cards.

This bill:

1) Requires the DMV to establish a program to authorize the use of alternatives to conventional license plates, stickers and registration cards with the following requirements:

   a) The alternative device is subject to approval by the DMV and the CHP.

   b) The alternative device shall be available in a form that does not include vehicle location technology, and it may be available in a form that includes

vehicle location at a higher price. The vehicle location capability shall be capable of being disabled by the user, and in passenger vehicles used solely for personal use, the location capability shall be capable of being manually disabled by the driver while in the vehicle. If the vehicle location technology is active there shall be a visible indication.

c) Data exchanged between the DMV and the device is limited to only that data needed to display evidence of registration. The DMV shall not receive information regarding the location of the device.

d) Use of the alternative device is optional and offered on an opt-in basis.

2) Requires the DMV to adopt regulations to implement the program. Those regulations shall include, but not be limited to, the following:

a) Standards for safe use.

b) Requirements for product oversight and customer support.

c) Requirements for product size, design, display and functionality.

d) Data sharing, privacy, and security protocols.

e) Reporting requirements.

f) Reasonable fees to cover the cost of program implementation.

g) Requirements to ensure that registered owners of the device are aware of the GPS capability and can deactivate the function.

h) Requirements to ensure that nonregistered vehicle operators are aware of the GPS capability.

3) Requires an entity seeking approval to issue an alternative device to submit a business plan to the DMV for approval which includes, but is not limited to, the following:

a) An administrative oversight plan.

b) A product support plan.

c) Security, privacy and cybersecurity evaluations and measures to protect against unauthorized access to information.

d) Procedures to comply with applicable privacy and security requirements, including the California Consumer Privacy Act of 2018.

4) Provides that an alternative device intended to substitute for a license plate shall be visible in the same way that conventional license plates are visible, as specified, and display only information and images approved by the department or deemed necessary by the department. If the alternative device malfunctions it may be deemed a correctable violation. The alternative device provider shall establish a process for frequent notification if the device becomes defective.

5) Prohibits the provider of the alternative device from sharing or selling the information obtained to provide the device, or any other information obtained by virtue of contracting with the DMV to provide the device, including, but not limited to, information collected by the device itself.

6) Prohibits an employer from using the alternative device to monitor employees except during work hours, and only if necessary for the performance of the employee's duties. Employees who believe they have been subject to a violation of this provision may file a complaint with the Labor Commissioner. The employer shall provide the employee with a notice stating that monitoring will occur along with other specified information about how the character of data collected and how the data will be used and stored. An employer who violates these provisions shall be subject to a civil penalty of $250 per employee per violation for the initial occurrence and $1000 per employee per violation for subsequent occurrences.

Comments

1) *Author's Statement.* AB 984 will give the Department of Motor Vehicles the authority to move forward with new vehicle registration technologies. After testing several products during the pilot program, the Department issued the required report in August 2019 to the Legislature, which recommended the DMV be able to move forward with the various products and devices. Some of these products will serve to reduce internal DMV workloads and allow vehicle registration renewal to become a completely remote transaction.

2) *Successful New Product Pilot*. In 2013, legislation was signed authorizing DMV to establish a pilot program to evaluate the use of alternatives to license plates, registration stickers, and registration cards. DMV has developed specifications and completed procurements for each of the three authorized alternatives. The procurement process ran longer than was anticipated and field testing for some of the technologies by the contracted vendors did not begin until as late as November 2015. As noted by the author, in its evaluation of the pilot program the DMV reported that "In general, there were no significant law enforcement, DMV, or customer concerns with any of the three pilot products. DMV recommends all three products be fully authorized in statute for permanent use." [1]

3) *Going Digital*. Two of the three new products are digital: a digital license plate and a digital vehicle registration. (The third new product is a lower-tech adhesive license plate that wraps around the bumper.) The digital nature of these two new products allows for over-the-air updating and renewal. However, this raises additional concerns about cybersecurity and hacking. The DMV pilot program report notes that the digital license plate is protected by encryption and is password protected. A feature of the digital license plate is that the lower area of the plate which lists the DMV's website on standard plates can have alternative messaging, such as a greeting (e.g. Have a Nice Day). One can imagine the opportunity for creativity and mischief, though this is mitigated by the requirement that the digital plate can only display information and images approved by the DMV.

4) *Why Go Digital?* A digital license plate will cost more than a traditional plate, $499 for a non-GPS enabled model. That it is digital may be reason enough for some individuals to switch. A digital plate will also make vehicle registration renewal easier as it can be done completely electronically without requiring the annual application of stickers. When coupled with GPS capability the digital plate can be used for location and security services. In any event, the marketing and financial risk (and reward) of these devices is on the shoulders of the 3rd party vendors.

5) *Your Choice*. The digital products offered as a result of this bill are optional. Individuals will only receive these digital products if they make an affirmative choice to do so. A digital license plate must be offered without GPS capability

[1] "REPORT ON ALTERNATIVE REGISTRATION PRODUCTS PILOT PROGRAM", August 2019.

and may be offered with such capability provided that capability may be disabled by the user.

Privacy Concerns. This bill contains privacy protections including limitations on the type of information that can be provided to the DMV, and on when and how the alternative device can be used to monitor employees. Employee monitoring is subject to comprehensive notification to the employee and violations are civil penalties subject to enforcement by the Labor Commissioner. Recent amendments prohibit the alternative devices from having vehicle location technology when used on private vehicles. This has caused much of the opposition, including the ACLU, the California Partnership to End Domestic Violence, and the Consumer Federation of California, to remove their opposition.

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

According to the Senate Appropriations Committee:

- DMV estimates costs of $511,000 in 2022-23 and $945,000 annually thereafter for 7.0 PY of staff to establish a new unit charged with approval and oversight of alternative registration products, and to make technology changes to manage vendors and make record information available to law enforcement. Staff notes that DMV would incur upfront implementation costs prior to establishing and collecting fees from participating vendors and customers to partially or fully offset costs in the future. (Motor Vehicle Account)

- CHP estimates it would incur minor and absorbable costs to update departmental policies and procedures and conduct testing of digital license plates. (Motor Vehicle Account)

- Staff estimates likely minor costs for the Labor Commissioner and the Attorney General for enforcement of provisions that prohibit an employer from using an alternative device to monitor employees. (General Fund)

SUPPORT: (Verified 8/2/22)

Reviver (source)
California Black Chamber of Commerce
California New Car Dealers Association
Silicon Valley Leadership Group

OPPOSITION: (Verified 8/23/22)

Communities United for Restorative Youth Justice

ASSEMBLY FLOOR: 59-2, 6/1/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cunningham, Daly, Davies, Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, Stone, Ting, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Lackey, Voepel
NO VOTE RECORDED: Bigelow, Bryan, Cooper, Megan Dahle, Flora, Frazier, Gallagher, Mathis, Mayes, Muratsuchi, Nazarian, Nguyen, Patterson, Rodriguez, Salas, Seyarto, Smith, Valladares

Prepared by: Randy Chinn / TRANS. / (916) 651-4121
8/26/22 15:32:10

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

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

THIRD READING

Bill No: AB 1014
Author: McCarty (D)
Amended: 6/22/22 in Senate
Vote: 27

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 8-4, 6/20/22
AYES: Roth, Becker, Dodd, Eggman, Leyva, Min, Newman, Pan
NOES: Melendez, Bates, Hurtado, Jones
NO VOTE RECORDED: Archuleta, Ochoa Bogh

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-0, 6/29/22
AYES: Cortese, Durazo, Newman, Wiener
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 56-6, 1/31/22 - See last page for vote

SUBJECT: Cannabis: retailers: delivery: vehicles

SOURCE: Author

DIGEST: This bill requires the Department of Cannabis Control (DCC) to include regulations that would allow for an increase to $10,000 in the value of cannabis goods to be carried during delivery of those cannabis goods to customers by employees of a licensed retailer, as specified. This bill also requires a licensed retailer to provide their delivery employee certain hardware, tools, and supplies, access to healthcare benefits, and either a vehicle that meets certain requirements or reimbursement for certain costs for the use of the employee's vehicle, as specified. It requires a licensed retailer to maintain an automobile insurance policy to cover third-party liability of deliveries, as specified.

ANALYSIS:

Existing law:

1) Establishes the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA) to regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of both medicinal cannabis and adult-use cannabis. (Business and Professions Code (BPC) § 26000)

2) Establishes the Department of Cannabis Control (Department) to regulate cannabis with the sole authority to create, issue, deny, renew, discipline, suspend, or revoke licenses for microbusinesses, transportation, storage unrelated to manufacturing activities, distribution, testing, and sale of cannabis and cannabis products within the state. Requires the Department to administer the portions of MAUCRSA related to and associated with the cultivation of cannabis and with the manufacturing of cannabis products. Delegates to the Department authority to create, issue, deny, and suspend or revoke cultivation or manufacturing licenses for violations of MAUCRSA. (BPC §§ 26010, 26012)

3) Requires the Department to establish a track and trace program for reporting the movement of cannabis and cannabis products throughout the distribution chain that utilizes a unique identifier and is capable of providing specified information. (BPC § 26068)

4) Requires the track and trace program to include an electronic seed to sale software tracking system with data points for the different stages of commercial activity, including, but not limited to, cultivation, harvest, processing, manufacturing, distribution, inventory, and sale. (BPC § 26068)

5) Requires the Department to establish minimum security and transportation safety requirements for the delivery of cannabis and cannabis products. (BPC § 26070)

6) Requires a licensed retailer's delivery employee that is carrying cannabis goods for delivery is only allowed to travel in an enclosed motor vehicle. (Title 4, California Code of Regulations (CCR) § 15417)

7) Requires a licensed retailer's delivery employee is prohibited from carrying cannabis goods in the delivery vehicle with a value in excess of $5,000 at any time and the value of cannabis goods carried in the delivery vehicle for which a

delivery order was not received and processed by the licensed retailer prior to the delivery employee departing from the licensed premises may not exceed $3,000. (Title 4, CCR § 15418)

This bill:

1) Requires DCC to include regulations that would allow for an increase to $10,000 in the value of cannabis goods to be carried during delivery of those cannabis goods to customers by employees of a licensed retailer, as specified.

2) Requires a licensed retailer to provide their delivery employee certain hardware, tools, and supplies, access to healthcare benefits, and either a vehicle that meets certain requirements or reimbursement for certain costs for the use of the employee's vehicle, as specified.

3) Requires a licensed retailer to maintain an automobile insurance policy to cover third-party liability of deliveries, as specified.

4) Makes various findings and declarations.

Background

AB 141 (Committee on Budget, Chapter 70, Statutes of 2021) established the Department of Cannabis Control under MAUCRSA. In that same bill, DCC was required to establish a track and trace program to report the movement of cannabis and cannabis products throughout the distribution chain that utilizes a unique identifier and is capable of providing information that captures certain specified information, including but not limited to: the licensee from whom the product originated and the licensee who received the product; the transaction date; and the unique identifier for the cannabis or cannabis product.

As part of Proposition 64, California voters decided that cannabis deliveries may only be made by a licensed retailer or microbusiness, or a licensed nonprofit, as defined. Proposition 64 also made clear the following: 1) employees of a retailer, microbusiness, or nonprofit delivering cannabis or cannabis products must carry a copy of the licensee's current license and a government-issued identification with a photo of the employee, such as a driver's license, where the employee must present the license and identification upon request to certain state personnel, as specified; 2) the licensee must maintain a copy of that delivery request during delivery to be made available upon request from state personnel, as specified, where

documentation complies with state and federal law on protecting confidential medical information; 3) a customer requesting delivery must also maintain physical or electronic copy of the delivery request and make it available upon request by the DCC and law enforcement officers; and 4) a local jurisdiction may not prevent delivery of cannabis or cannabis products on public roads by a licensee acting in compliance with this division and local law, as specified. This language was also reflected in AB 141 in 2021.

Currently, existing regulation also provides that delivery employees of licensed cannabis retailers are prohibited from carrying more than $5,000 in cannabis goods in a vehicle at any time. Existing regulation also states that delivery employees of licensed cannabis retailers are prohibited from carrying more than $3,000 in cannabis goods in a vehicle at any time if the order was not received and processed by the licensed retailer before the delivery employee departed from the licensed retailer's business site. In 2020, the Cannabis Advisory Committee recommended that the $5,000 threshold for cannabis goods sold via delivery should be increased.

This bill adds a new provision to this section, which would require that DCC regulations regarding minimum security and transportation safety requirements include regulations that allow for up to $10,000 worth of cannabis goods to be delivered at any given time, rather than $5,000 or $3,000 as established by regulation described above. It also specifies the different types of cannabis goods carried during delivery, including cannabis goods for which a delivery order that either was or was not received and processed by the licensed retailer prior to the delivery employee departing from the licensed premise, or a combination of the two – allowing for cannabis delivery drivers to deliver cannabis orders not placed when they originally left the licensed retail site.

This bill also specifies the value of the cannabis goods shall be determined using the current retail price of all cannabis goods carried by or within the delivery vehicle of the licensed retailer's delivery employee.

Furthermore, this bill states that a licensed retailer shall provide their delivery employee all required hardware, tools, and supplies, including items like a GPS, a secured case to hold cannabis products during delivery, a method to unlock the case to the interior of the vehicle, and a dashboard camera if required by local law. It also requires the licensed retailer to reimburse a delivery employee for all legally-required costs incurred for business purposes with that vehicle. If the retailer provides their own vehicle for delivery, the vehicle must: 1) be less than 10 model years old; 2) be in good working condition and have an up-to-date

registration with the Department of Motor Vehicles to operate the vehicle with a clean title; 3) have no outstanding vehicle recalls, no major cracks or obstructions in its windshields, and has working headlights, taillights, and other required safety features; 4) provide access to healthcare benefits for all full-time employees by providing a subsidy to allow employees to purchase health insurance through Covered California, access to group health insurance policies, or other methods; and 5) maintain a hired and non-owned automobile insurance policy with a minimum limit of one million dollars ($1,000,000) per incident to cover third-party liability of deliveries of cannabis goods on the licensee's behalf by an employee who use their own vehicle for the deliveries. Finally, this bill defines "cannabis goods" to mean cannabis, cannabis products, or both, "Covered California" to mean the California Health Benefit Exchange, as defined, and "licensed retailer" means a licensee that has been issued a retail license pursuant to this division, including a retailer, microbusiness, or nonprofit.

Comments

When evaluating legislative policy change that would override existing DCC regulations, it is important to ask which entity is in the best position to decide what would be best for the industry as a whole, and which entity could more fluidly make changes if changes become necessary in the future. This bill as written provides very specific requirements which may not be easily changed should the industry need it in the future. With respect to the delivery aspect of this bill, these questions become apparent.

At the heart of this bill lies the idea that an increased amount of legal cannabis product will lead to more legal cannabis sales. Data submitted by Eaze as described above prove promising. However, that data was largely influenced by the shutdowns of the COVID-19 pandemic. With lockdowns going away, ease of access to the illicit market may increase, and the reality that the illegal market is generally cheaper than the legal market for consumers remains. Additionally, other questions of public safety emerge: will increasing the amount of cannabis in a delivery vehicle increase the likelihood of cannabis delivery trucks being targeted? While this is not to say that delivery may not help to address the illicit market problem, it is to say that this is one of many steps that likely need to be taken to address the concerns posed by the illicit market and should be considered in the broader cannabis context.

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

According to the Senate Appropriations Committee, DCC estimates costs of $3,673,251 in the first year and $3,026,451 ongoing to create an additional technical vehicle inspection process for each licensee-provided delivery vehicle.

SUPPORT: (Verified 8/11/22)

Absolutextracts
Abx
Advanced Vapor Devices
Albert Einstone's
Alt
Americans for Safe Access
Anthony Law Group
Bay Area Americans for Safe Access
Besito
Biko
Biscotti
Blackbird Distribution
Blaqstar Farms
Bloom Farms
Brite Labs
Brownie Mary Democratic Club of San Francisco
California Cannabis Industry Association
California Cannabis Manufacturers Association
California Norml
Caliva
Cann
Cannabis Connect
Cannabis Distributors Association
Cannacraft
Cannasafe Labs
Care by Design
Central Coast Agriculture
Circles
Clergy and Laity United for Economic Justice
Cloud9
Consortium Management Group
Cream of the Crop
Cresco Labs, Inc.

Curaleaf
Defonce
Dime Bag
Dompen
Dosist
Double Barrel
Dr. Kerklaan
Dr. Norms
Dreamt
Eaze Technologies, Inc.
Eden
El Blunto
Ember Valley
Emerald Sky
Everyday
Faith in Action Bay Area
Far Out
Farm Almora
Flow Kana
Foxy
Fume
G Pen
Gaiaca Waste Revitalization
Garden Society
Grav
Happy Sticks
Harborside
Headstash
Heavy Hitters
Henry G. Wykowski & Associates
Honey
Humboldt's Finest
Humbolt Farms
Infinite Cal
Island
James Henry
Jetty Extracts
Kanha
Kgb Reserve
Kingpen

Kiva Confections
Kurvana
K-Zen
LA Vida Verde
Lake Grade
Law Office of Kimberly R. Simms
Legal Cannabis for Consumer Safety
Legion of Bloom
Leune
Level
Level Blends
Life Development Group
Loud Brands
Loudpack
Lowell Herb Co.
Mad Lilly
Mammoth Distribution
Mary's Medicinals
Meadow
Mondo
Mpp
Nabis
National Cannabis Industry Association
New Life CA
Nouera
Oakland Extracts
Old Pal
Om Edibles
Operation Evac
Pax Labs, Inc..
Pineapple Express
Plus
Pop-up Potcorn
Potli
Proof
Punch
Pure
Pure Beauty
Rebel Coast
Rove

San Diego Americans for Safe Access
Santori
Se7enleaf
Select
Silicon Valley Cannabis Alliance
Smokiez
Sonder
Sparc
Special Branch
Sshots
Stiiizy
Stonade
Sunderstorm
Telos
Tempo
Thcdesign
The Farmacy SB
The London Fund
The Parent Company
The Werc Shop
Timeless
Torch
Tutti
UFCW – Western States Council
Utopia
Vaya
Venice Cookie Co.
Veterans Cannabis Coalition
Weed for Warriors Project
Wonderbrett
Wunder
Yvette Mcdowell Consulting

OPPOSITION: (Verified 8/11/22)

Association of California Cities – Orange County
Casa del Diabetico
City of Fountain Valley
City of Thousand Oaks
City of Visalia
Coachella Valley Cannabis Alliance Network

Diligencias
Eden Youth and Family Center
La Cooperativa Campesina de California
League of California Cities
Long Beach Collective Association
Los Amigos de la Comunidad del Valle Imperial
San Francisco Cannabis Retailers Alliance
Social Equity LA
The California Minority Alliance,
Union de Guatemaltecos Emigrantes
United Cannabis Business Association

ARGUMENTS IN SUPPORT: Generally, supporters write that California will never succeed in eliminating the black market unless it stops placing unnecessary burdens on legal operators.

ARGUMENTS IN OPPOSITION: Generally, opposition writes that this bill would not only create scenarios that conflict with local authority, but that may create public safety concerns.

Opponents also state that low-income communities will see a large number of mobile dispensaries and that cannabis companies will put profits before community interests. They are concerned that the bill does not prohibit a delivery vehicle to roam parks and other places where youth are present and state that the bill creates significant public safety concerns for communities of color.

ASSEMBLY FLOOR: 56-6, 1/31/22
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Chen, Cooley, Cunningham, Megan Dahle, Daly, Davies, Flora, Friedman, Gabriel, Gallagher, Eduardo Garcia, Gipson, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Mathis, Mayes, McCarty, Medina, Mullin, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Santiago, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Muratsuchi, Nguyen, Salas, Seyarto, Smith, Voepel

NO VOTE RECORDED: Arambula, Bigelow, Cervantes, Choi, Cooper, Fong, Cristina Garcia, Gray, Kiley, Maienschein, O'Donnell, Patterson, Blanca Rubio, Waldron

Prepared by: Dana Shaker / B., P. & E.D. /
8/23/22 14:13:30

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

SENATE RULES COMMITTEE AB 1051
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1051
Author: Bennett (D)
Amended: 8/25/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 11-0, 6/23/21
AYES: Pan, Melendez, Eggman, Gonzalez, Grove, Hurtado, Leyva, Limón, Roth, Rubio, Wiener

SENATE HUMAN SERVICES COMMITTEE: 5-0, 7/6/21
AYES: Hurtado, Jones, Cortese, Kamlager, Pan

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 77-0, 5/28/21 - See last page for vote

SUBJECT: Medi-Cal: specialty mental health services: foster children

SOURCE: County Behavioral Health Directors Association of California

DIGEST: This bill requires a foster child's county of original jurisdiction to retain responsibility to arrange and provide specialty mental health services when the foster child is placed out of the county in a short-term residential therapeutic program, community treatment facility, or group home, or is admitted to a children's crisis residential program unless under certain specified circumstances. establishes contracting options and notification requirements for county mental health plans and specialty mental health services providers; and requires the Department of Health Care Services and the California Department of Social Services to collect and make available certain data related to the presumptive transfer of foster children. Defines "foster child" to include youth up to age 21.

Senate Floor Amendments of 8/25/22 modify provisions related to data collection, strike provisions related to mental health assessments conducted outside of the

county of original jurisdiction, strike provisions related to third-party service providers, strike provisions related to standardized forms as these efforts are now underway underway due to the CalAIM initiative which was finalized after this bill was introduced, and add a definition of "foster child" to include youth up to age 21.

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 or have been abused or neglected, as specified. [WIC §202]

2) Establishes the Medi-Cal program, administered by Department of Health Care Services (DHCS), under which qualified low-income individuals receive health care services. [WIC §14001.1]

3) Defines Early Periodic and Screening Diagnostic, and Treatment Services (EPSDT) as screening services, vision services, dental services, hearing services, and other necessary health care, diagnostic services, treatment and other measures to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, including SMHS, for eligible individuals who are under the age of 21. [42 USC §1396d(r)]

4) Requires DHCS to implement mental health managed care through contracts with mental health plans (MHPs). Requires DHCS to contract with a county or counties acting jointly for the delivery of specialty mental health services (SMHS) to each county's eligible Medi-Cal beneficiary population. Authorizes MHP contracts to be awarded exclusively and on a geographic basis. [WIC §14712]

5) States legislative intent to ensure that foster children who are placed outside of their county of original jurisdiction are able to access specialty mental health services (SMHS) in a timely manner, consistent with their individual strengths and needs and the requirements of the federal EPSDT services. [WIC §14717.1]

6) Defines "presumptive transfer" as the requirement that, absent any exceptions as established by current law, responsibility for providing or arranging for

SMHS promptly transfer from the county of original jurisdiction to the county in which the foster child resides, under certain conditions, as specified. [WIC §14717.1]

7) Permits presumptive transfer to be waived, as specified, under any of the following exceptions:

   a) The transfer would disrupt continuity of care or delay access to services for the foster youth;
   b) The transfer would interfere with family reunification efforts;
   c) The youth's placement in a county other than the county of original jurisdiction is expected to last less than six months; or,
   d) The youth's residence is within 30 minutes of travel time to the established SMHS provider in the county of original jurisdiction.

8) Requires the California Health and Human Services Agency (CHHSA) to coordinate with DHCS and Department of Social Services (DSS) to issue policy guidance concerning the conditions for and exceptions to presumptive transfer, in consultation with DSS and with the input of stakeholders, as specified. [WIC §14717.1]

9) Permits, on a case-by-case basis, and when consistent with the medical rights of children in foster care, presumptive transfer to be waived and requires the responsibility for the provision of SMHS to remain with the county of jurisdiction if certain exceptions exist, as specified. [WIC §14717.1]

10) Permits a short-term residential therapeutic program (STRTP) to accept for placement youth who have been assessed as meeting the medical necessity criteria for Medi-Cal SMHS, and the youth have been assessed as seriously emotionally disturbed or if the youth have been assessed as requiring the level of services provided by the STRTP in order to meet their behavioral or therapeutic needs, as specified. [WIC §11462.01]

11) Defines a STRTP as a residential facility operated by a public agency or private organization and licensed by DSS that provides an integrated program of specialized and intensive care and supervision, services and supports, treatment, and short-term 24-hour care and supervision to youth. Requires the care and supervision provided by an STRTP to be nonmedical, except as otherwise permitted, as specified. [HSC §1502]

12) Defines "child and family team" as a group of individuals who are convened by the placing agency and who are engaged through a variety of team-based processes to identify the strengths and needs of the child or youth and their family, and to help achieve positive outcomes for safety, permanency, and well-being. [WIC §16501]

This bill:

1) Defines "foster child" or "foster children" as a Medi-Cal eligibility child or children younger than 21 years of age who have been placed into foster care by a county child welfare agency or a county probation department.

2) Requires a placing agency to provide notification to the MHP that will be responsible for arranging and providing SMHS for the foster child before placing a foster child out of county. Permits the placing agency to complete notifications via email. Allows the placing agency to notify the appropriate mental health plan no later than three business days after making the out-of-county placement if notification before placement is not possible.

3) Requires a foster child's county of original jurisdiction to retain responsibility to arrange and provide SMHS if the foster child is placed out of the county of original jurisdiction in a community treatment facility, group home, or STRTP, or is admitted to a children's crisis residential program except in the following circumstances:

    a) The case plan for the foster child specifies that the child will transition to a less restrictive placement in the same county as the facility in which the child has been placed; or,
    b) The placing agency determines, as informed by the child and family team, as defined, that the child will be negatively impacted if responsibility for providing or arranging for SMHS is not transferred to the same county in which the child has been placed. Requires the placing agency to document the basis for making this determination in the child's case record and allows the placing agency to include the MHP in the receiving county in a child and family team meeting.

4) Requires the process existing in law for presumptive transfer to be used if the circumstances in 3) exist.

5) Allows a group home, STRTP, community treatment facility, or children's crisis residential program to notify the MHP that will be responsible for

arranging and providing SMHS for the foster child that the foster child has been admitted to a children's crisis residential program or placed in a group home, STRTP,short-term residential therapeutic program, or community treatment facility upon accepting placement or admission of a foster child.

6) Requires the placing agency to document which MHP is responsible for providing or arranging for SMHS.

7) Allows the MHP in the county of original jurisdiction and the SMHS provider to choose one of the following options to ensure timely payment for SMHS provided to the foster child when the responsibility for SMHS is not transferred to the other county:

   a) Utilize an existing contract between the MHP in the county of original jurisdiction and the SMHS provider for payment of services within a mutually agreed upon timeframe.
   b) Establish a contract for payment of SMHS for a foster child or multiple foster children for payment of services within a mutually agreed upon timeframe.

8) Requires payment, if neither option in 7) is available, for the SMHS to be made by the MHP in the county of original jurisdiction or through an agreement between the MHP in the county of residence and the MHP in the county of original jurisdiction. Requires the MHPs to enter in to such agreement within 30 days of notice, by either the placing agency or the placement provider, of the out-of-county placement.

9) Requires DHCS and DSS to collect data on the receipt of SMHS by foster children who are placed outside of their county of original jurisdiction. Requires the data to be included in the DHCS's Medi-Cal SMHS performance dashboard, in compliance with all applicable state and federal privacy and confidentiality laws, and contain all of the following statewide information:

   a) The number of foster children placed out of county.
   b) The number of foster children placed out of county who receive SMHS.
   c) For foster children placed out of county who receive SMHS, the number of foster children for whom the county of original jurisdiction is responsible for providing or arranging for those services, and the number of foster children for whom the county of residence is responsible for that provision or arrangement.

10) Requires DHCS and DSS to adopt regulations implementing this bill by July 1, 2027. Requires DHCS to obtain any necessary federal approvals and make such request by July 1, 2024. Conditions implementation on federal approval and financial participation.

11) Makes other conforming changes.

Comments

Author's statement. According to the author, foster youth have a higher risk of developing mental health issues and they need to be guaranteed that they can receive their mental health care in a timely manner. This bill will help do that by clarifying that presumptive transfer cannot be applied to foster youth that are transferred out-of-county temporarily into an STRTP, unless care would be improved with a transfer or the youth is expected to reside in the new county permanently. This bill will also support timely payment by providing payment contract options between providers and counties. Providing counties and providers with these options helps guarantee timely care by guaranteeing timely payment. The goal is to make temporary out-of-county transfers as seamless as possible for foster youth and make sure they have access to the mental health care that they need.

NOTE: Please see the Senate Health Committee analysis for full background discussion on this bill.

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

According to the Senate Appropriations Committee:

- $2.2 million one-time costs to CDSS and DHCS.
- Under $1 million annual ongoing costs to CDSS and DHCS.
- Under $500,000 annual ongoing local mandate.

SUPPORT: (Verified 8/25/22)

County Behavioral Health Directors Association of California (source)
Association of Community Human Service Agencies
California Access Coalition
California Alliance of Child and Family Services

California Behavioral Health Planning Council
California Council of Community Behavioral Health Agencies
California State Association of Counties
California Welfare Directors Association
Cardenas Consulting Group
Casa Pacifica Centers for Children and Families
County of Ventura
County Welfare Directors Association of California
Hathaway-Sycamores
SEIU California
Stars Behavioral Health Group
Steinberg Institute
Vista Del Mar Child and Family Services

OPPOSITION: (Verified 8/25/22)

Department of Finance

ARGUMENTS IN SUPPORT: This bill is sponsored by the County Behavioral Health Directors Association of California (CBHDA). CBHDA writes that foster youth placed in residential treatment settings across county lines often faced unnecessary delays in receiving appropriate mental health services due to changes in Medi-Cal payment responsibility. They state that this bill would strengthen, clarify, and update the presumptive transfer law to ensure a youth-centered, case-by-case decision is made regarding responsibility for the provision of or arrangement for specialty mental health services for foster youth placed out of county for a short term or time-limited placement. They also state that this bill will ensure that facilities serving these children, specifically STRTPs and community treatment facility, are paid in a timely fashion. They note that this bill includes several methods of payment to providers with timelines when a youth is not presumptively transferred, and the original county retains responsibility for these individuals.

ARGUMENTS IN OPPOSITION: The Department of Finance is opposed to this bill because it results in General Fund costs not included in the current fiscal plan, including Proposition 30 costs to provide funding to counties. Also, by requiring counties to use a standardized form, this bills remove local control over the design and implementation of realigned programs. This provision has been removed.

ASSEMBLY FLOOR: 77-0, 5/28/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Cristina Garcia, Maienschein

Prepared by: Jen Flory / HEALTH / (916) 651-4111
8/26/22 15:32:11

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

SENATE RULES COMMITTEE AB 1102
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1102
Author: Low (D)
Amended: 8/16/22 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 14-0, 7/12/21
AYES: Roth, Melendez, Archuleta, Bates, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan

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

SUBJECT: Telephone medical advice services

SOURCE: Author

DIGEST: This bill clarifies that a telephone medical advice service is required to ensure that all health care professionals providing telephone medical advice services from an out-of-state location are operating consistent with the laws governing their licenses, in addition to their respective scopes of practice, and clarifies that a telephone medical advice service is required to comply with directions and requests for information made by the respective in-state healing arts licensing boards.

Senate Floor Amendments of 8/16/22 strike a requirement for a telephone medical advice services to provide notification to the Department of Consumer Affairs (DCA) of specified information and make technical changes.

ANALYSIS:

Existing law:

1) Establishes the Department of Consumer Affairs (DCA) within the Business, Consumer Services, and Housing Agency to house licensing boards, bureaus,

committees and a commission for purposes of licensure and regulation. (BPC § 100-144.5)

2) Regulates telephone medical advice services through the licensing boards responsible for the practice of the licenses providing the advice. (BPC § 4999-4999.7)

3) Defines "telephone medical advice" as a telephonic communication between a patient and a health care professional in which the health care professional's primary function is to provide to the patient a telephonic response to the patient's questions regarding the patient's or a family member's medical care or treatment, including assessment, evaluation, or advice provided to patients or their family members. (BPC § 4999.7(b))

4) Defines "telephone medical advice service" as any business entity that employs, or contracts or subcontracts, directly or indirectly, with, the full-time equivalent of five or more persons functioning as health care professionals, whose primary function is to provide telephone medical advice, that provides telephone medical advice services to a patient at a California address. The definition does not include a medical group that operates in multiple locations in California if no more than five full-time equivalent persons at any one location perform telephone medical advice services and those persons limit the telephone medical advice services to patients being treated at that location. (BPC § 4999)

5) Defines "health care professional" as an employee or independent contractor who provides medical advice services and is appropriately licensed, certified, or registered as a dentist, dental hygienist, dental hygienist in alternative practice, or dental hygienist in extended functions, as a physician and surgeon, as a registered, as a psychologist, as a naturopathic doctor, as an optometrist, as a marriage and family therapist, as a licensed clinical social worker, as a licensed professional clinical counselor, or as a chiropractor, and who is operating consistent with the laws governing the licensee's respective scopes of practice in the state in which the licensee provides telephone medical advice services. (BPC § 4999.7)

This bill:

1) Clarifies that a telephone medical advice service is required to ensure that all health care professionals who provide telephone medical advice services from an out-of-state location are operating consistent with the laws governing their respective licenses, in addition to their scopes of practices.

2) Clarifies that a telephone medical advice service is required to comply with all directions and requests for information made by the respective healing arts licensing boards.

3) Strikes the requirement under current law for a telephone medical advice services to provide notification to DCA within 30 days of any change of name, physical location, mailing address, or telephone number of any business, owner, partner, corporate officer, or agent for service of process in California, together with copies of all resolutions or other written communications that substantiate these changes.

Background

Telephone Medical Advice Services. The Telephone Medical Advice Services Bureau (TMAS) was created in 1999 (AB 285, Corbett, Chapter 535, Statutes of 1999) in response to a situation in which a Senator's constituent was unable to contact her physician over the phone, received inadequate service at a clinic, and then died after surgery at a hospital. Under that regulatory structure, any business that provided telephone medical advice services to a patient in California, who employs or contracts with five or more health care professionals, was required to register with the Bureau.

Through the sunset review oversight of DCA in 2015-2016, it was noted that consumers were already protected from unlicensed providers by the other DCA regulatory health boards because telehealth statutes had evolved to authorize and regulate the provision of healthcare remotely via the telephone and other technologies. TMAS was eliminated as of January 1, 2017.

At the time, TMAS was under the direct control of the DCA. When TMAS sunset, there was no DCA unit or division to assume the duties overseeing telephone medical advice companies, so the enforcement duties were transferred to individual boards through their existing authority over the practice of the relevant licensed practitioners.

The law, though, still requires companies to comply with DCA direction and requests for information. The DCA of course only has limited authority over licensing boards and their licensees, as boards make licensing and enforcement decisions. The law may not be as clear as to the authority of boards over telephone medical advice service businesses. This bill would clarify that the enforcement of the regulation of telephone medical advice services is within the jurisdiction of boards by requiring them to comply with directions and requests from the boards, not just the DCA.

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

SUPPORT: (Verified 8/16/22)

California Association of Orthodontists
Medical Board of California

OPPOSITION: (Verified 8/16/22)

None received

ARGUMENTS IN SUPPORT: The California Association of Orthodontists writes in support and notes, "This bill would address the problem by clarifying that the telephone medical advice companies must also comply with directions and requests for information from not just the DCA, but also any licensing board that has jurisdiction over the type of advice being provided. Further, by virtue of hiring the professionals, the companies themselves may be providing services under state law. As a result, the oversight of these companies should be clarified to also include the licensing boards. It would also clarify that a person who resides out of state and provides telephone medical advice in California must comply with the specific licensing requirements (e.g. not delinquent), not just the scope of practice requirements of their own state's license."

The Medical Board of California writes in support and notes, "[This bill] would specify that a telephone medical advice service is required to ensure that all health care professionals who provide telephone medical advice services from an out-of-state location are operating consistent with the laws governing their respective licenses. The bill would also specify that a telephone medical advice service is required to comply with all directions and requests for information made by the respective healing arts licensing boards. By clarifying that these organizations must comply with directions and requests from the Board with regard to the practice of medicine, AB 1102 furthers the Board's mission of consumer protection."

ASSEMBLY FLOOR: 74-0, 4/8/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk,

Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Wicks, Rendon
NO VOTE RECORDED: Cooley, Holden, Mullin, Wood

Prepared by: Sarah Mason / B., P. & E.D. / 916-651-4104
8/17/22 15:46:38

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1227
Author: Levine (D), et al.
Amended: 8/25/22 in Senate
Vote: 27 - Urgency

SENATE GOVERNANCE & FIN. COMMITTEE: 4-1, 6/15/22
AYES: Caballero, Durazo, Hertzberg, Wiener
NOES: Nielsen

SENATE PUBLIC SAFETY COMMITTEE: 4-1, 6/28/22
AYES: Bradford, Kamlager, Skinner, Wiener
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 56-19, 1/31/22 - See last page for vote

SUBJECT: Firearms and ammunition: excise tax

SOURCE: Author

DIGEST: This bill enacts the Gun Violence Prevention, Healing, and Recovery Act, which imposes an excise tax on firearms and ammunition sold in the state on firearms dealers and ammunition vendors, and allocates proceeds for specified purposes.

Senate Floor Amendments of 8/25/22 exempt from the measure's tax sales of long guns and rifles, as well as ammunition used by long rifles, upon presentation of a hunting license by the purchaser to the seller.

ANALYSIS:

Existing law:

1) Imposes several excise taxes, including on cigarettes and tobacco products, alcoholic beverages, motor vehicle and diesel fuel, and cannabis, among others.

2) Enacts the Fee Collections Procedures Law, the state's general purpose statute that guides California Department of Tax and Fee Administration (CDTFA) administration of special taxes and fees.

3) Imposes several fees upon the purchase of a new firearm in the state, which is currently $37.19 per firearm: the Dealer Record of Sale fee (DROS) is $31.19, and covers the costs of the required background check prior to purchase and the transfer registry.

4) Requires firearms dealers to charge each firearm purchaser a fee not to exceed $1, except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index, but no more than is necessary to fund specified governmental notification and reporting functions.

5) Authorizes the California Department of Justice (DOJ) to require each dealer to charge each firearm purchaser or transferee a transfer fee not to exceed one dollar ($1) for each firearm transaction, and allows that fee to be adjusted upward at a rate not to exceed the increase in the California Consumer Price Index.

6) Requires firearms dealers to charge each person who obtains a firearm a fee not to exceed five dollars ($5) for each transaction, and allows that fee to be adjusted upward at a rate not to exceed the increase in the California Consumer Price Index.

7) Requires the DOJ to recover its costs under specified provisions related to the sale of ammunition by charging the ammunition transaction or purchase applicant a fee not to exceed the fee charged for its DROS process.

8) Authorizes a certified instructor of the firearm safety test to charge a fee of twenty-five dollars ($25), fifteen dollars ($15) of which is to be paid to DOJ to cover its costs in carrying out and enforcing firearms laws.

9) Requires other various fees to be paid to DOJ at the time of a firearm or ammunition purchase.

This bill:

1) Enacts the Gun Violence Prevention, Healing, and Recovery Act, which imposes an excise tax upon licensed firearms dealers, ammunition vendors, and firearm precursor part vendors, at the rate of 10 percent of the sales price of a handgun, and 11 percent of the sales price of a long gun, rifle, firearm precursor part, and ammunition sold in this state.

2) Provides that the tax is due and payable quarterly on or before the last day of the month next succeeding each quarterly period of three months, and requires taxpayers to file returns electronically quarterly with CDTFA.

3) Requires CDTFA to administer and collect the tax according to the Fee Collections Procedures Law, and further authorizes CDTFA to adopt and enforce rules and regulations relating to its provisions.

4) Exempts from the tax the gross receipts from the retail sale of:

   a) Any firearm, ammunition, or firearm precursor part to a peace officer or any law enforcement agency employing that peace officer, for use in the normal course of employment.

   b) Any long gun or rifle, with a barrel not less than 16 inches in length, or any ammunition to be used in a long gun or rifle, to a person who presents to the seller a valid, unexpired hunting license issued to that person by the Department of Fish and Wildlife.

5) Establishes the State Treasury the Gun Violence Prevention, Healing, and Recovery Fund, and directs proceeds of the tax to the Fund.

6) Directs CDTFA to deposit proceeds of the tax into the Fund after deducting net refunds and costs of administration, and allocates tax proceeds as follows:
   a) Directs one-half of tax proceeds to the Gun Violence Prevention, Healing, and Recovery Fund, including one-half of the interest or dividends for appropriation by the Legislature to fund gun violence prevention programs, gun violence prevention education, and gun violence prevention research.
   b) Continuously appropriates the other half of tax proceeds to the Board of State and Community Corrections for the California Violence Intervention and Prevention (CalVIP) Grant Program, for the sole purpose of funding CalVIP grants, as well as administration and evaluations of the CalVIP program.

7) Commences the tax on July 1, 2023, and requires the Director of the Department of Finance to loan $2 million to CDTFA to implement the tax; the loan must be repaid before tax proceeds are appropriated to the Fund.

8) States that its provisions shall not be construed to preclude or preempt a local ordinance that imposes any additional requirements, fee, or surtax on the sale of firearms, ammunition, or firearm precursor parts, and that its tax is imposed in addition to any other tax or fee imposed by the state, or a city, county, or city and county.

9) Contains an urgency and severability clause.

10) Defines several terms.

11) Includes legislative findings and declarations supporting its purposes.

Background

Congress enacted the Revenue Act of 1918 during World War I to help fund wartime spending, which included the first excise tax on firearms, shells, and cartridges. Congress then enacted the Federal Aid in Wildlife Restoration Act in 1937, which reallocated previously enacted taxes on firearms and ammunition, and extended them to archery equipment. Commonly known as Pittman-Robertson, the U.S. Fish and Wildlife Service (FWS), within the Department of the Interior, distributes tax proceeds from these taxes to fund efforts in states and territories for wildlife restoration, conservation, and hunter education and safety programs. The Act imposes taxes on the manufacturer, distributor, or importer of the good subject to the tax at the following rates:

- 10 percent for pistols and revolvers;
- 11 percent for other firearms and ammunition; and
- 11 percent for bows and archery equipment.

Between 1939 and 2019, FWS disbursed $18.8 billion for wildlife restoration and hunter education and safety activities for Pittman-Robertson programs.

While California does not impose an excise tax on firearms and ammunition, California imposes several fees upon the purchase of a new firearm in the state, which is currently $37.19 per firearm: the Dealer Record of Sale fee is $31.19, and covers the costs of the required background check prior to purchase and the transfer registry. There is also a $1.00 Firearms Safety Act Fee, and a $5.00 Safety and Enforcement Fee.

Related/Prior Legislation

AB 1227 was amended on May 5, 2022, to remove its existing contents, relating to building energy efficiency standards, and include provisions related to an excise tax on firearms. The author introduced substantially similar measures last year (AB 1223) and in 2019 (AB 18), both of which failed to advance out of the Assembly.

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

According to the Senate Appropriations Committee:

- CDTFA estimates that this bill would result in additional excise tax revenues of $110 million in 2023-24. If firearms dealers and ammunition vendors choose to pass the excise tax to on to their customers, the bill would additionally result in a state and local sales and use tax revenue gain of up to $9.4 million, $4.3 million of which would flow to the General Fund.
- CDTFA indicates that it would incur administrative costs of $2.4 million in 2022-23, $841,000 in 2023-24, $793,000 in 2024-25, and $1.5 million annually thereafter, to implement the provisions of the bill. Specifically, the department would incur new costs to (1) identify and notify taxpayers, (2) create a new tax return, (3) program computer systems, (4) revise publications and audit/compliance manuals, (5) develop special notices and tax guides, (6) create regulations, and (7) respond to inquiries from the public.

SUPPORT: (Verified 8/26/22)

California Partnership for Safe Communities
City of Oakland - Department of Violence Prevention
City of Richmond - Office of Neighborhood Safety
Equal Justice USA
Everytown for Gun Safety Action Fund
Giffords: Courage to Fight Gun Violence
Johns Hopkins Center for Gun Violence Solutions
Los Angeles County Board of Supervisors
Mayor Libby Schaaf, City of Oakland
Moms Demand Action for Gun Sense in America
Movement 4 Life
National Association of Social Workers, California Chapter
San Diegans for Gun Violence Prevention
Shaphat Outreach
Southern California Crossroads

Students Demand Action for Gun Sense in America
The Health Alliance for Violence Intervention
Urban Peace Institute
Youth Alive!

OPPOSITION: (Verified 8/26/22)

Black Brant Group
Cal-Ore Wetlands and Waterfowl Council
California Bowmen Hunters/state Archery Association
California Deer Association
California Hawking Club
California Houndsmen for Conservation
California Rifle and Pistol Association, Inc.
California Waterfowl Association
Congressional Sportsmen's Foundation
National Rifle Association - Institute for Legislative Action
National Wild Turkey Federation, California State Chapter
Nor-Cal Guides & Sportsmen's Association
Peace Officers Research Association of California
Rocky Mountain Elk Foundation
Safari Club International - California Chapters
Safari Club International - Golden Gate Chapter
Safari Club International - San Francisco Bay Area Chapter
San Diego County Wildlife Federation
Suisun Resource Conservation District
Tulare Basin Wetlands Association
Wild Sheep Foundation, California Chapter
One individual

ARGUMENTS IN SUPPORT: According to the author, "Gun dealers are the leading source of firearms trafficked to illegal markets, often through straw purchases, as well as negligent losses. Gun violence not only imposes an immeasurable toll on human and mental health within impacted communities; it also produces its own economic burdens for state and local resources such as law enforcement, court expenses, and medical resources, and indirectly impacts home values and profitability for local businesses. AB 1227 initiates a long-term investment in reducing the various harms caused by guns across California by imposing a modest excise tax on the sale of guns and ammunition, and establishes the Gun Violence Prevention, Healing, and Recovery Fund. This bill exempts this tax from the sale of long guns, rifles, or any ammunition to be used in a long gun

or rifle when a customer presents a valid license to hunt in California. AB 1227 will provide consistent funding for gun violence prevention programs across California, especially the state Violence Intervention and Prevention Grant Program (CalVIP), which is the most cost-efficient community-based violence intervention programs in the state."

ARGUMENTS IN OPPOSITION: According to the California Rifle and Pistol Association, Inc. "AB 1227 seeks to impose an excise tax in the amount of 10% of the sales price of a handgun and 11% of the sales price of a long gun, firearm precursor part, and ammunition to fund your 'Gun Violence Prevention, Healing, and Recovery Fund.' At that time the author stated the annual cost estimates from gun violence in the United States reach $229 billion. These costs are caused by criminals, not the individuals AB 1227 seeks to tax. We stand with law enforcement throughout California and put the safety of our communities and schools first. However, we oppose taxing millions of law-abiding citizens for the actions of criminals who compose a fraction of a percent of the population who are not law-abiding. Firearms and ammunition sales already bring millions of dollars of sales tax into California's state budget each year. Many communities throughout California already collect over 10% in sales tax alone. Additionally, an average of $40 million are made available for conservation and education efforts in California each year from an 11% federal excise tax imposed on the sale of sporting arms and ammunition. Furthermore, the proposed tax, which clearly impedes constitutionally-protected activity, raises serious legal questions as to whether funds raised in this manner can be spent on this kind of policy. Case law makes it clear states may not impose a charge for the enjoyment of a right granted by the federal Constitution and a person cannot be compelled to purchase, through a fee or tax, the privilege freely granted by the Constitution. This type of tax scheme has been repeatedly struck down in multiple jurisdictions. A marriage license tax being used to fund shelters for victims of domestic violence was recently struck down on similar grounds. In that case, the court pointed that a statute cannot violate the Constitution no matter how desirable or beneficial the legislation may be. Under the law, a state may only impose taxes in connection with the exercise of a constitutional right when those fees are designed to recoup the costs incurred in administering a regulatory regime to which the taxpayer is subjected. This tax neither recoups the costs of legitimate firearm regulation nor does it fund efforts to benefit firearms consumers generally. It is therefore our view that these additional taxes are unjustified and unlawful."

ASSEMBLY FLOOR: 56-19, 1/31/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Cooley,

Cooper, Cunningham, Daly, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon

NOES: Bigelow, Chen, Choi, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Mayes, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron

NO VOTE RECORDED: Gray

Prepared by: Colin Grinnell / GOV. & F. / (916) 651-4119
8/26/22 15:32:12

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

SENATE RULES COMMITTEE AB 1242
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1242
Author: Bauer-Kahan (D), Mia Bonta (D) and Cristina Garcia (D), et al.
Amended: 8/25/22 in Senate
Vote: 27 - Urgency

SENATE GOVERNMENTAL ORG. COMMITTEE: 15-0, 7/6/21
AYES: Dodd, Nielsen, Allen, Archuleta, Becker, Borgeas, Bradford, Glazer, Hueso, Jones, Kamlager, Melendez, Portantino, Rubio, Wilk

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 6/28/22
AYES: Bradford, Kamlager, Skinner, Wiener
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 4-2, 8/11/22
AYES: Portantino, Bradford, Laird, Wieckowski
NOES: Bates, Jones
NO VOTE RECORDED: McGuire

ASSEMBLY FLOOR: Not relevant

SUBJECT: Reproductive rights

SOURCE: Attorney General Rob Bonta

DIGEST: This bill prohibits law enforcement from knowingly arresting a person for performing or aiding in the performance of a lawful abortion or for obtaining an abortion and prohibits specified entities from providing information to another state or political subdivision thereof regarding an abortion that is lawful under California law, except as provided.

Senate Floor Amendments of 8/25/22:

1) Clarify that a California corporation served with a warrant issued by another state to produce specified records shall be entitled to rely on the representations made in an attestation accompanying the warrant that the evidence sought is not related to an investigation into, or enforcement of, a prohibited violation, as defined.

2) Add cross-references for the definition "prohibited violation" to affected statutes.

Senate Floor Amendments of 8/22/22 add provisions to the bill that prohibit a California corporation that provides electronic communications services from providing information or assistance to another state in the investigation or enforcement of any violation that implicates the fundamental right of privacy with respect to personal reproductive decisions, as specified.

ANALYSIS:

Existing law:

1) Establishes the Reproductive Privacy Act which provides that the Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions and, therefore, it is the public policy of the State of California that:

    a) Every individual has the fundamental right to choose or refuse birth control;

    b) Every individual has the fundamental right to choose to bear a child or to choose to obtain an abortion, with specified limited exceptions; and,

    c) The state shall not deny or interfere with a person's fundamental right to choose to bear a child or to choose to obtain an abortion, except as specifically permitted (Health & Saf. Code § 123460 et. seq., § 123462.)

2) Provides that the state may not deny or interfere with a person's right to choose or obtain an abortion prior to viability of the fetus or when the abortion is necessary to protect the life or health of the person. (Health & Safe. Code § 123462(c); 123466.)

3) Prohibits, under the State Confidentiality of Medical Information Act, providers of health care, health care service plans, or contractors, as defined,

from sharing medical information without the patient's written authorization, subject to certain exceptions. (Civ. Code § 56 et seq.)

4) Requires the Attorney General to carry out certain functions relating to anti-reproductive-rights crimes in consultation with the Governor, the Commission on Peace Officer Standards and Training (POST), and other subject matter experts. (Pen. Code, § 13777, subd. (b).)

5) Requires the Attorney General to direct local law enforcement agencies to report annually to the Department of Justice specified information related to anti-reproductive-rights crimes. (Pen. Code, § 13777, subd. (a)(2).)

6) Defines "anti-reproductive-rights crime" to mean a crime committed partly or wholly because the victim is a reproductive health services client, provider, or assistant, or a crime that is partly or wholly intended to intimidate the victim, any other person or entity, or any class of persons or entities from becoming or remaining a reproductive health services client, provider, or assistant. (Pen. Code, § 13776, subd. (a).)

7) Requires POST to develop an interactive training course on anti-reproductive-rights crimes and make the telecourse available to all California law enforcement agencies though an online portal or platform. (Pen. Code, §13778, subd. (a).)

8) Requires every law enforcement agency in this state to develop, adopt, and implement written policies and standards for officers' responses to anti-reproductive-rights calls by January 1, 2023. (Pen. Code, § 13778.1.)

9) Requires superior court judges in each county to prepare, adopt, and annually revise a uniform countywide schedule of bail for all bailable offenses, as specified. (Pen. Code, § 1269b, subd. (c))

10) Requires a bail schedule to contain a list of the offenses and amounts of bail applicable for each, as well as a general clause for designated amounts of bail for all offenses not specifically listed in the schedule (Pen. Code, § 1269b, subd. (f).)

11) Requires a magistrate, upon the filing of a verified complaint, to issue a warrant directed to any peace officer commanding the officer to apprehend an individual in this state who was convicted, or has violated the terms of bail, probation, or parole, or who is charged with a crime, in another state and who is believed to be in this state. A certified copy of the sworn charge or

complaint and affidavit upon which the warrant is issued shall be attached to the warrant. (Pen. Code, § 1551.)

12) Defines a "search warrant" as a written order in the name of the people, signed by a magistrate and 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.)

13) Provides that a search warrant cannot be issued but upon probable cause, supported by affidavit, naming or describing the person to be searched or searched for, and particularly describing the property, thing, or things and the place to be searched. (Pen. Code, § 1525.)

14) Requires a magistrate to issue a search warrant if he or she is satisfied of the existence of the grounds of the application or that there is probable cause to believe their existence. (Pen. Code, § 1528, subd. (a).)

15) Requires, pursuant to the California Electronic Communications Privacy Act (CalECPA), state and local law enforcement agencies to obtain a search warrant or wiretap order before they can access any electronic communication information" which includes emails, digital documents, text messages, location information, and any digital information stored in the cloud. (Pen. Code, § 1546 et seq.)

This bill:

1) Prohibits a local or state law enforcement agency or officer from knowingly arresting or knowingly participating in the arrest of any person for performing, supporting, or aiding in the performance of an abortion in this state, or obtaining an abortion in this state, if the abortion is lawful under the laws of this state.

2) States that a state or local public agency, or any employee thereof acting in their official capacity, shall not cooperate with or provide information to any individual or agency or department from another state, or, to the extent permitted by federal law, to a federal law enforcement agency regarding an abortion that is lawful under the laws of this state and that is performed in this state.

3) Declares that a law of another state that authorizes the imposition of civil or criminal penalties related to an individual performing, supporting, or aiding in the performance of an abortion in this state, or an individual obtaining an

abortion in this state, if the abortion is lawful under the laws of this state, is against the public policy of this state.

4) States that no state court, judicial officer, or court employee or clerk, or authorized attorney shall issue a subpoena pursuant to any state law in connection with a proceeding in another state regarding an individual performing, supporting, or aiding in the performance of an abortion in this state, or an individual obtaining an abortion in this state, if the abortion is lawful under the laws of this state.

5) Provides that the investigation of any criminal activity in this state that may involve the performance of an abortion is not prohibited, provided that information relating to any medical procedure performed on a specific individual is not shared with an agency or individual from another state for the purpose of enforcing another state's abortion law.

6) Requires the countywide bail schedule to set zero dollars bail for an individual who has been arrested in connection with a proceeding in another state regarding an individual performing, supporting, or aiding in the performance of an abortion in this state, or an individual obtaining an abortion in this state, if the abortion is lawful under the laws of this state.

7) Requires, within 24 hours of filing a verified complaint regarding an offense of violation committed in another state, the filing agency to transmit electronically to the Attorney General a complete copy of the verified complaint, the out-of-state indictment, information, complaint, or judgment, out-of-state warrant, and the affidavit upon which the out-of-state warrant was issued.

8) Prohibits the issuance of a warrant for any item or items that pertain to an investigation into a prohibited violation, as defined.

9) Defines "prohibited violation" to mean any violation of law that creates liability for or arising out of providing, facilitating, or obtaining an abortion that is lawful under California law, or intending or attempting such acts.

10) Provides that a California corporation that provides electronic communications services or remote computing services to the general public, when served with a warrant issued by another state shall produce the records as if that warrant had been issued by a California court unless corporation knows or should know that the warrant relates to an investigation into or enforcement of a prohibited violation, as defined.

11) Specifies that the California corporation shall not comply with the out-of-state warrant unless the warrant includes, or is accompanied by, an attestation that the evidence sought is not related to an investigation into or enforcement of a prohibited violation, as defined.

12) States that a California corporation served with a warrant issued by another state to produce specified records shall be entitled to rely on the representations made in an attestation accompanying the warrant that the evidence sought is not related to an investigation into, or enforcement of, a prohibited violation, as defined.

13) Prohibits a California corporation or a corporation whose principal executive offices are located in California that provides electronic communication services from providing in California information or assistance in accordance with the terms of a warrant, court order, subpoena, wiretap order, pen register trap and trace order, or other legal process issued by another state or a political subdivision thereof that relates to an investigation or enforcement of a prohibited violation, as defined.

14) Authorizes the Attorney General to commence a civil action to compel any California corporation or whose principal executive offices are located in California that provides electronic communication services to comply with these provisions.

15) States that a California corporation or corporation whose principal executive offices are located in California are not subject to any cause of action for providing information or assistance with the terms of a warrant, court order, subpoena, wiretap order, pen register trap and trace order, or other legal process issued by another state or a political subdivision thereof except where the corporation knew or should have known that the legal process relates to an investigation or enforcement of a prohibited violation, as defined.

16) States that notwithstanding any other provision of law, no magistrate shall enter an ex parte order authorizing interception of wire or electronic communications or the installation of a pen register or trap and trace device for the purpose of investigating or recovering evidence of a prohibited violation, as defined.

17) Contains an urgency clause so that the bill will take immediate effect.

18) Provides the facts constituting the necessity are as follows: the impending United States Supreme Court decision overturning *Roe v. Wade* makes it

necessary to protect California's health care providers and those seeking reproductive health care in California at the earliest time possible.

19) Contains a severability clause.

Comments

According to the author:

> Our abortion providers are in peril. With *Roe* at risk of being overturned, our physicians are gearing up to treat an influx of patients coming from states that have banned their right to choose. These extreme measures to eliminate all access to abortion care may criminally implicate anyone who receives, provides, or even assists with an abortion here in California. If California does not act, judgements under these laws could lead to arrest and months of legal limbo for providers in our state. This is unacceptable. California law enforcement has no obligation to cooperate with these abhorrent out of state actions. AB 1242 protects our providers from the risk of arrest, as well as protecting in-state patients from any California information-sharing that would serve the brutal attacks to abortion rights.

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

According to the Senate Appropriations Committee:

- Department of Justice (DOJ): DOJ reports costs of $49,000 in Fiscal Year (FY) 2022-23, $53,000 in 2023-24 and 2024-25, and $5,000 in 2025-26 (General Fund). Additional costs may be incurred in order for the DOJ to receive and review verified complaints of person who have been charged with a crime from another state.

- Law Enforcement Policies and Training: Unknown, potentially significant costs for all 608 state and local agencies employing peace officers to update policies regarding cooperation with out-of-state entities and provide the training necessary to comply with the requirements of AB 1242 (Local Funds, General Fund). Costs to the General Fund will depend predominantly on whether the duties imposed by this bill constitute a reimbursable state mandate, as determined by the Commission on State Mandates.

- POST: Likely minor and absorbable costs to POST to update existing training modules

SUPPORT: (Verified 8/25/22)

Attorney General Rob Bonta (source)
Advancing New Standards in Reproductive Health
California Nurse Midwives Association
California Public Defenders Association
California Women's Law Center
LA Care Health Plan
Los Angeles County District Attorney's Office
NARAL Pro-Choice California
Planned Parenthood Affiliates of California
University of California

OPPOSITION: (Verified 8/25/22)

Right to Life League

ARGUMENTS IN SUPPORT: According to Advancing New Standards in Reproductive Health:

> As more states pass restrictive abortion policies and bans, California is likely to be the destination for increasing numbers of pregnant people seeking abortion care that they cannot obtain in their own state. As a Reproductive Freedom state, we have a responsibility here in California to be part of the solution, and that is a responsibility that my fellow physician abortion providers and I take very seriously. We cannot sit by idly as we see people's rights taken away in other states—putting their health at risk—when we have the skills and tools to help them.
>
> Patients may travel here to California to obtain abortion care here; they may travel here to receive medications to start the abortion, which will be completed in their home state; or they may seek out telehealth services to obtain a medication abortion from a California provider. All of these services are safe, effective, and consistent with medical standards of care. They are legal for California patients, and should be available to out-of-state residents, as well—especially those facing barriers to care in their home state.
>
> If a patient in a state with severe restrictions seeks out my help to obtain safe abortion care, I would feel compelled to help them. Yet despite my good intentions, I could face a number of legal risks by providing the care I've outlined to a patient from a state that has banned abortion, including possible extradition to that state to face criminal penalties.

I should not have to fear arrest, extradition, and prosecution simply because I provided abortion care that is otherwise legal and safe here in California.

ARGUMENTS IN OPPOSITION: According to Right to Life League:

On its face, the bill's subsections (b) and (c) blatantly and impermissibly violate the U.S. Constitution. These subsections forbid state peace officers from complying with valid court orders issued in foreign states such as subpoenas and from sharing information properly requested by a foreign jurisdiction.

The language of subsection (b) is overbroad and vague, failing to define what "shall not cooperate with or provide information to" means. The phrase in subsection (c), "information relating to any medical procedure", is similarly undefined, vague, and overbroad, encompassing any manner of data or requested materials enumerated in a lawful request.

Together these sections clearly and blatantly violate the Full Faith and Credit Clause by instructing peace officers not to comply, thwarting enforcement of foreign laws against abusers and human traffickers who may hide in California, and denying justice to victims. Together they act to create a confusing morass inhibiting police officers' duties to comply with other state officials' legal requests.

The U.S. Constitution is the supreme law of our land. Thanks to the recent U.S. Supreme Court decision in Dobbs, states now decide how to regulate abortion. Dobbs did not concern the application of the Full Faith and Credit Clause in Article 4. California may proclaim itself an "Abortion Sanctuary"; however, California may not thwart the laws of other states to suit its radical pro-abortion agenda.

Prepared by: Stella Choe / PUB. S. /
8/26/22 15:32:12

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

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THIRD READING

Bill No: AB 1249
Author: Gallagher (R), et al.
Amended: 8/24/22 in Senate
Vote: 27 - Urgency

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/1/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 74-0, 1/31/22 - See last page for vote

SUBJECT: Income taxes: gross income exclusions: wildfires

SOURCE: Author

DIGEST: This bill excludes settlement payments made in connection with the fires associated with the Pacific Gas and Electric (PG&E) trust fund from taxable income.

Senate Floor Amendments of 8/24/22 move the contents of the bill to a new code section to avoid conflicts with current law.

Senate Floor Amendments of 8/16/22 move the contents of the bill to a new section to avoid potential conflicts with Assembly Bill 2142 (Gabriel).

ANALYSIS:

Existing law:

1) Allows various income tax credits, deductions, exemptions, and exclusions.

2) Provides that gross income includes all income from any source, including compensation for services, business income, gains from property, interest, dividends, rents, and royalties, unless specifically excluded.

3) Excludes certain types of income from gross income, such as amounts received as a gift or inheritance, certain compensation for injuries and sickness, qualified scholarships, educational assistance programs, foster care payments, and interest received on certain state or federal obligations.

4) Allows for the exclusion from gross income of amounts received in a settlement, other than punitive damages, which result from personal physical injuries or physical sickness.

5) Excludes payments received as a reimbursement of costs, such as those paid to rebuild a destroyed home.

This bill:

1) Excludes from gross income for state tax purposes any amount received in settlement claims including payments made from the PG&E trust to fire victims by a qualified taxpayer from PG&E related to the 2015 Butte, 2017 North Bay, and 2018 Camp Fires. This income is excluded for both Personal Income and Corporation taxpayers and is operative for all taxable years until the 2028 taxable year.

2) Defines a "qualified taxpayer" as a taxpayer that owned real property or resided in either the counties of Amador, Calaveras, Napa, Sonoma, Lake, Butte, Mendocino or Solano and received qualified amounts in connection with either the 2015 Butte Fire, the 2017 North Bay Fire, or the 2018 Camp Fire, and paid or incurred expense related to those fires.

3) Defines "qualified amount" to mean the amount received in settlement by a qualified taxpayer from the fire victims' trust.

4) Requires the qualified taxpayer to provide documentation of the settlement payment received to the Franchise Tax Board (FTB) upon request.

5) Requires FTB to deliver to the Legislature a written report that includes the number of qualified taxpayers who received a settlement payment from the fire victims' trust and the aggregate amount of those payments.

Background

California Fires. Over the last decade, California has experienced increased, intense, and record-breaking wildfires throughout the state. These fires have resulted in devastating loss of life and billions of dollars in damage to property and infrastructure. Fires attributed to power lines and electrical equipment comprise

nine of the 20 most destructive fires in California history. According to Cal Fire, in 2021 alone there were over 8,000 incidents and over 2.5 million acres of scorched land. In 2020, wildfires destroyed 4.5 million acres.

*Camp Fire***.** In November 2018, multiple victims of the Camp Fire sued PG&E. In January 2019, PG&E declared bankruptcy resulting from investigative findings that the company's equipment sparked a number of wildfires, including the Camp Fire. On June 20, 2020, the United States Bankruptcy Court for the Northern District of California approved PG&E's bankruptcy plan, which established a trust. This trust was established as part of the PG&E bankruptcy to pay fire victims and authorized $13.5 billion in compensation to victims of the 2015 Butte Fire, the 2017 North Bay Fires, and the 2018 Camp Fire.

Related/Prior Legislation

SB 1246 (Stern, 2022) provides similar treatment as AB 1249 by excluding from gross income for state tax purposes any amount received in settlement by a qualified taxpayer from Southern California Edison in settlement claims related to the 2017 Thomas Fire and the 2018 Woolsey Fire from gross income. This income is excluded for both Personal Income Tax and Corporation taxpayers and is operative for all taxable years until the 2027 taxable year. The bill is currently pending on the Assembly Floor.

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

According to the Senate Appropriations Committee:

- FTB estimates that this bill would result in General Fund revenue losses of $55 million in 2021-22, $90 million in 2022-23, $48 million in 2023-24, and $32 million in 2024-25.
- FTB’s costs to implement this bill would be minor and absorbable.

SUPPORT: (Verified 8/25/22)

Consumer Attorneys of California
Howard Jarvis Taxpayers Association
Legal Aid of Sonoma
Paradise Ridge Chamber of Commerce
Rural County Representatives of California
Two individuals

OPPOSITION: (Verified 8/25/22)

None received

ARGUMENTS IN SUPPORT: According to the author, "AB 1249 would clarify California's tax code to exclude certain wildfire victims from paying state taxes on compensation for damages received out of PG&E's "Fire Victim Trust." This would help ensure fire victims receive just compensation for the economic and non-economic damages caused by those wildfires. Exempting gross income from state tax for claims paid out of the Fire Victim Trust would be a tremendous help to wildfire victims. With PG&E's stock projected to sell for lower than victims were promised, leaving the trust short billions of dollars, exempting settlements from state taxes would provide much needed and timely relief for these victims."

ASSEMBLY FLOOR: 74-0, 1/31/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Gipson, Gray, Grayson, Holden, Irwin, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Eduardo Garcia, Jones-Sawyer

Prepared by: Jessica Deitchman / GOV. & F. / (916) 651-4119
8/26/22 15:32:13

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

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THIRD READING

Bill No: AB 1262
Author: Cunningham (R), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 8-0, 1/12/22
AYES: Umberg, Borgeas, Gonzalez, Hertzberg, Laird, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Caballero, Durazo, Jones

SENATE APPROPRIATIONS COMMITTEE: 5-0, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NO VOTE RECORDED: Bates, Jones

ASSEMBLY FLOOR: 63-0, 5/10/21 - See last page for vote

SUBJECT: Information privacy: other connected device with a voice recognition feature

SOURCE: Author

DIGEST: This bill implements consumer protections in connection with the use of voice recognition features on smart speaker devices and associated transcripts or recordings.

Senate Floor Amendments of 8/25/22 apply the bill's provisions to smart speaker devices only, maintaining existing law as to connected televisions.

ANALYSIS:

Existing law:

1) Prohibits a person or entity from providing the operation of a voice recognition feature within this state without prominently informing, during the initial setup or installation of a connected television, either the user or the person

designated by the user to perform the initial setup or installation of a connected television. (Bus. & Prof. Code § 22948.20(a).)

2) Provides that any actual recordings of spoken word collected through the operation of a voice recognition feature by the manufacturer of a connected television, or a third-party contractor, for the purpose of improving the voice recognition feature, including, but not limited to, the operation of an accessible user interface for people with disabilities, shall not be sold or used for any advertising purpose. (Bus. & Prof. Code § 22948.20(b), (c).)

3) Prohibits a person or entity from compelling a manufacturer or other entity providing the operation of a voice recognition feature to build specific features for the purpose of allowing an investigative or law enforcement officer to monitor communications through that feature. (Bus. & Prof. Code § 22948.20(d).)

4) Provides, pursuant to the California Constitution, 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. (Cal. Const, art. I, § 1.)

5) Establishes the California Consumer Privacy Act of 2018 (CCPA), which grants consumers certain rights with regard to their personal information, including enhanced notice, access, and disclosure; the right to deletion; the right to restrict the sale of information; and protection from discrimination for exercising these rights. It places attendant obligations on businesses to respect those rights. (Civ. Code § 1798.100 et seq.)

6) Establishes the California Privacy Rights Act (CPRA), which amends the CCPA and creates the Privacy Protection Agency (PPA), which is charged with implementing these privacy laws, promulgating regulations, and carrying out enforcement actions. (Civ. Code § 798.100 et seq.; Proposition 24 (2020).)

This bill:

1) Defines “smart speaker device” as a speaker and voice command device offered for sale in this state with an integrated virtual assistant connected to a cloud computing storage service that uses hands-free verbal activation. Excludes from the definition a cellular telephone, tablet, laptop computer with

mobile data access, a pager, or a motor vehicle, as defined, or any speaker or device associated with, or connected to, a vehicle.

2) Prohibits a manufacturer of a smart speaker device from providing the operation of a voice recognition feature within this state without prominently informing, during the initial setup or installation of a smart speaker device, either the user or the person designated by the user to perform the initial setup or installation of the smart speaker device, that it contains such a feature and what actions or commands activate the feature.

3) Provides that a recording or transcription collected or retained through the operation of a voice recognition feature by the manufacturer of a smart speaker device, if the recording or transcription qualifies as personal information or is not deidentified, shall not be:

    a) shared with, or sold to, a third party without the user's affirmative consent, except as provided; or
    b) retained electronically, unless the user provides affirmative consent to that retention.

4) Permits a manufacturer to share information with a third party or retain it without affirmative consent to the extent sharing or retaining that information is necessary to execute a function or provide a service specifically requested by the user, provided the manufacturer does not use that information for any purpose other than to facilitate the execution of that function or provision of that service.

5) Requires a manufacturer to provide a user with the option to revoke consent for the sharing or sale of data at any time in a manner reasonably accessible to the user. If a user has declined to provide that affirmative consent, the person or entity seeking consent shall not request that affirmative consent for a period of at least one month after the user has declined to provide that affirmative consent, or when the user attempts to access a function that requires affirmative consent.

6) Requires a person or entity that retains voice recordings that qualify as personal information, or are not deidentified, to provide an interface for users to review and delete those recordings. Users must also be given the ability to delete those recordings automatically.

7) Provides that where a person or entity determines that the voice recognition feature was incorrectly activated ("false wake"), the person or entity shall not use the associated audio recording for any purpose, except to improve the functioning of the voice recognition feature. The person or entity may retain up to the initial 15-second portion of the audio recording for such purposes.

8) Defines "retained" to mean saving or storing, or both saving and storing, voice recorded data longer than the minimum time necessary to complete a requested command by the user. "Personal information," "deidentified," "sell," "share," and "third party" have the same meanings as laid out in the CCPA.

9) Defines "affirmative consent" to mean that a manufacturer of a smart speaker device has done all of the following:

    a) clearly and conspicuously disclosed to the user, separate from the device terms of use, all of the following to the extent applicable:

        i) the device may be used to process and retain user recordings;
        ii) those recordings may be analyzed or shared with third parties;
        iii) the device may be used to process and retain transcriptions of spoken words; and
        iv) those transcriptions may be analyzed or shared with third parties; and,

    b) clearly and conspicuously disclosed to the user, separate from the device terms of use, the extent to which the device can operate in the absence of consent for each practice described in the above disclosure; and,
    c) received consent, as defined in the CCPA, for each practice described in the above disclosure.

10) Subjects violations of these provisions involving smart speaker devices to the same enforcement scheme as applied to violations involving connected televisions.

11) Delays implementation until January 1, 2024.

Background

Existing law prohibits persons or entities from providing the operation of a voice recognition feature associated with connected televisions within this state without prominently informing the user. Recordings or transcriptions collected through the operation of such features for the purpose of improving the voice recognition feature cannot be sold or used for any advertising purpose.

This bill applies these provisions to smart speaker devices and strengthens protections on what can be done with the recordings, and additionally the transcriptions, including limitations on the sharing and retention of the information, as specified. Consumers are required to be properly notified of the features and what activates those features. Companies must receive affirmative consent before sharing or selling transcriptions or recordings, except as provided. Where a speaker retains voice recordings, the user must be provided the opportunity to review and delete those recordings.

This is an author-sponsored bill that is supported by the Children's Advocacy Institute, Oakland Privacy, and Common Sense. It is opposed by various technology and business associations, including the California Chamber of Commerce and TechNet.

Comments

According to the author:

> Existing law (Sections 22948.20, 22948.21, and 22948.23 of the Business and Professions Code) establishes prohibitions for the use of voice recognition features for connected televisions. Today, smart speakers are also equipped with voice recognition features, yet are not included in this section of the B&P code to ensure the same safeguards are in place. This bill would make this section of code more broad, changing the title to include "and Devices," and include smart speaker devices in the provisions.
>
> New safeguards are needed to ensure that consumers can enjoy the benefits of these technologies while mitigating the privacy risks that they pose. Privacy is not a partisan issue and there is a balance that can and needs to be reached—allowing companies to use data to improve their products while ensuring that users' data is not shared or otherwise compromised. There are simply not enough safeguards in place to prevent personal data from being shared. Though Amazon has made some changes, such as allowing someone

to say "Alexa, delete everything I've ever said," the burden is still placed on the consumer to ensure their data is removed. Even then, there is not much transparency surrounding how long data is saved, with what third-party applications it is shared before being deleted, et cetera.

Expanding the law to cover new voice recognition technology and products. This bill attempts to put up privacy guardrails around these smart speaker devices and their voice recognition features. It requires a person or entity seeking to provide the operation of a voice recognition feature to first prominently inform the user that the device contains such a feature, as well as what actions or commands will activate the feature to record or transcribe audio. These disclosures are a common sense transparency measure to ensure that consumers know that the smart speaker device they have is equipped with such a feature and its basic operation.

This bill also provides limitations on what can be done with recordings or transcriptions collected or retained through a voice recognition feature. If the recording or transcription is personal information, and is not deidentified, as those terms are defined in the CCPA, users must first provide affirmative consent before it can be retained electronically, or shared with or sold to any third party. However, there are exceptions to the consent requirement.

This bill also deals with so-called "false wakes," where a smart speaker device activates inadvertently and not in response to designated "wake words," such as "Hey, Siri." As users likely do not anticipate that such recordings will be kept and used for other purposes, the bill prohibits the use of audio recordings associated with these improper wakes for any purpose, with one exception. Amazon and others have indicated that they use these inadvertent recordings to improve the functioning of the voice recognition features. The bill permits the recordings to be used for these purposes even without user consent.

This bill makes clear that manufacturers are not liable for functionality provided by applications that the user chooses to use in the cloud or that are downloaded and installed by a user, unless the manufacturer collects, controls, or has access to any personal information collected or elicited by the applications.

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

According to the Senate Appropriations Committee, "Unknown, cost pressures due to increased court workload to adjudicate actions that are filed by the Attorney General or local district attorneys as a result of this measure (Special Fund – Trial Court Trust Fund, General Fund)."

SUPPORT: (Verified 8/25/22)

Children's Advocacy Institute
Common Sense
Oakland Privacy

OPPOSITION: (Verified 8/25/22)

American Association of Advertising Agencies
Association of National Advertisers
Billion Strong
California Chamber of Commerce
Civil Justice Association of California
Consumer Technology Association
Entertainment Software Association
Interactive Advertising Bureau
Internet Association
Ruh Global Impact
TechNet

ARGUMENTS IN SUPPORT: Common Sense states:

"As privacy and consumer advocates, we write to express our SUPPORT of AB 1262. As you well know consumers are especially concerned about invasive connected devices that sit in cars, kitchens, family rooms, and bedrooms. Indeed, a recent survey on smart speakers and voice assistants conducted by Common Sense Media found that more than nine in ten parents of young kids say that it is important to them that they can control the information collected about their family. Families want control, but one third of those surveyed said that while they would like to limit the information collected by such devices, they did not know how.

"We appreciate that this bill gives consumers more control over the information collected about them in intimate spaces such as their homes."

ARGUMENTS IN OPPOSITION: A coalition including the California Chamber of Commerce writes:

"AB 1262 reverses CPRA by requiring consumers to "opt-in" before the device can be used. Consumers who purchase smart speakers know that these speakers have one core function, and consumers buy these products to use that one function. Thus, if a customer does not opt-in to the retention of their data when using their

smart speaker device, the device will not work. Accordingly, creating this extra step for consumers who buy these devices is not only unnecessary, but frustrating for users. Retention of data is necessary to make calls, play music, shop online, and use applications to perform functions around the house, such as turning on lights or opening doors. The confusion and frustration this will cause customers is unnecessary because consumers know what these devices do at the time of purchase."

ASSEMBLY FLOOR: 63-0, 5/10/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Davies, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Gipson, Lorena Gonzalez, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Quirk, Quirk-Silva, Ramos, Reyes, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Stone, Ting, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Chen, Daly, Flora, Frazier, Eduardo Garcia, Gray, Grayson, Irwin, Low, Patterson, Petrie-Norris, Luz Rivas, Robert Rivas, Seyarto, Valladares

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
8/26/22 15:32:14

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THIRD READING

Bill No: AB 1278
Author: Nazarian (D)
Amended: 8/25/22 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 8-0, 7/12/21
AYES: Roth, Archuleta, Dodd, Eggman, Hurtado, Leyva, Min, Pan
NO VOTE RECORDED: Melendez, Bates, Becker, Jones, Newman, Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-1, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Jones
NO VOTE RECORDED: Bates

ASSEMBLY FLOOR: 54-9, 5/3/21 - See last page for vote

SUBJECT: Physicians and surgeons: payments: disclosure: notice

SOURCE: Center for Public Interest Law

DIGEST: This bill requires physicians and surgeons licensed by the Medical Board of California (MBC) and Osteopathic Medical Board of California (OMBC) to notify patients in writing every two years about the Open Payments database and requires them to post notice about the Open Payments database in each practice area.

Senate Floor Amendments of 8/25/22 delete the requirement that notification be provided every two years so that the measure specifies notification must be provided at the initial visit; clarify that the notification can be written or electronic; and delay the requirement for notice of the Open Payments database to be posted on physician websites, if they have websites, to take effect until January 1, 2024.

ANALYSIS:

Existing law:

1) Requires every board within the Department of Consumer Affairs to adopt regulations to require its licensees to provide notice to their clients or customers that the practitioner is licensed by this state. (BPC § 138)

2) Requires the MBC to adopt regulations to require its licentiates and registrants to provide notice to their clients or patients that the practitioner is licensed or registered in California by the board, that the practitioner's license can be checked, and that complaints against the practitioner can be made through the board's Internet Web site or by contacting the board. (BPC § 2026)

3) Requires the MBC, the OMBC, the Podiatric Medical Board of California, and the Physician Assistant Board to disclose to an inquiring member of the public information regarding any enforcement actions taken against a licensee, including probationary status and limitations on practice. (BPC § 803.1)

4) Enacts the Patient's Right to Know Act of 2018 to require certain healing arts licensees, including physicians and surgeons, who are on probation for certain offenses to provide their patients with information about their probation status prior to the patient's first visit. (BPC § 2228.1)

5) Requires drug manufacturers, under federal law, to obtain approval of new drugs from the federal Food and Drug Administration (FDA).

6) Requires, under the federal Physician Payments Sunshine Act (Sunshine Act), manufacturers of specified drugs, devices, biologicals, or medical supplies to disclose to the federal Centers for Medicare and Medicaid Services (CMS) payments or other transfers of value made to physicians or teaching hospitals.

7) Establishes the Sherman Law, administered by the Department of Public Health (DPH), which, among other things, regulates the packaging, labeling, and advertising of drugs and medical devices in California. (Health and Safety Code (HSC) § 109875 *et. seq.)*

8) Prohibits, in the Sherman Law, the sale, delivery, or giving away of any new drug or new device unless it is either: (HSC § 111550-111610)

    a) A new drug, and a new drug application has been approved for it by the FDA, pursuant to federal law, or it is a new device for which a premarket

approval application has been approved, and that approval has not been withdrawn, terminated, or suspended under the FDA; or

b) A new drug or new device for which DPH has approved a new drug or device application, and has not withdrawn, terminated, or suspended that approval.

c) Requires DPH to adopt regulations to establish the application form and set the fee for licensure and renewal of a drug or device license.

9) Requires drug companies to adopt a Comprehensive Compliance Program (CCP), as specified, and include limits on gifts or incentives provided to medical or health professionals. Requires drug companies to establish explicitly in its CCP a specific annual dollar limit on gifts, promotional materials, or items. (HSC § 119402)

This bill:

1) Requires a MBC and OMBC licensed physician and surgeon, other than an individual working in a hospital emergency room, to provide each patient at the initial office visit, a written or electronic notice of the federal Open Payments database (created to allow the public to search for data provided pursuant to Section 1320a-7h of Title 42 of the United States Code and that is maintained by the federal Centers for Medicare and Medicaid Services (CMS)). Requires the written to include a signature from the patient or a patient representative and the date of signature. Requires the physician to include a record of the notice in the electronic patient records or written patient records if electronic patient records are not maintained and requires them to give the patient or patient representative a copy of the signed and dated notice. Specifies that the notice contain the following text:

"The Open Payments database is a federal tool used to search payments made by drug and device companies to physicians and teaching hospitals. It can be found at https://openpaymentsdata.cms.gov."

2) Requires a physician and surgeon, other than an individual working in a hospital emergency room, or health care employer if the physician and surgeon is employed by an employer that provides health care services, to post, in each location where the individual practices, in an area likely to be seen by all persons entering the office, and on the website used for the individual's practice

(beginning January 1, 2024), a notice that includes a link to the Open Payments database website and the following:

> "For informational purposes only, a link to the federal Centers for Medicare and Medicaid Services (CMS) Open Payments web page is provided here. The federal Physician Payments Sunshine Act requires that detailed information about payment and other payments of value worth over ten dollars ($10) from manufacturers of drugs, medical devices, and biologics to physicians and teaching hospitals be made available to the public."

3) Makes a violation of these provisions unprofessional conduct.

Background

Open Payments Database. The Sunshine Act is a federal law that was passed in 2010 as part of the Patient Protection and Affordable Care Act and requires manufacturers of drugs, devices, biologicals, or medical supplies covered under Medicare, Medicaid, or the Children's Health Insurance Program to report annually to the federal Health and Human Services Secretary certain payments or other transfers of value to physicians and teaching hospitals. The Act also requires applicable manufacturers and applicable group purchasing organizations (GPOs) to report certain information regarding the ownership or investment interests held by physicians or the immediate family members of physicians in such entities. Manufacturers and GPOs are subject to civil monetary penalties for failing to comply with the reporting requirements. Annual data on all payments and transfers of value made to physicians must be provided, and physicians have 45 days to review the data and dispute errors before public release. The Secretary is required to publish the reported data on a public website, and information must be downloadable, easily searchable, and aggregated. States are generally preempted from enacting laws that require disclosure of the same type of information by manufacturers, but the Act explicitly permits states to require the reporting of additional data by drug companies. The passage of the Sunshine Act was intended to increase transparency around the financial relationships between physicians, teaching hospitals and manufacturers of drugs, medical devices and biologics.

CMS fulfills the law's mandate via the Open Payments Program. In June 2016, CMS published the 2015 Open Payments data of financial transactions between drug and medical device makers and health care providers. The data includes information about 11.9 million financial transactions attributed to over 600,000 physicians and more than 1,100 teaching hospitals nationwide, totaling $7.52 billion.

California's Comprehensive Compliance Program. SB 1765 (Sher, Chapter 927, Statutes of 2004) established the law that requires pharmaceutical companies to adopt and update a CCP for interactions with health care professionals and to establish explicitly in their CCPs an annual dollar limit on gifts, promotional materials or other items or activities, with certain exceptions, in accordance with the PhRMA Code and with specified federal guidance.

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

According to the Senate Appropriations Committee, this bill will result in indeterminate, but likely absorbable costs to MBC and OMBC to address a potential increase in enforcement workload related to a small increase in complaints, and estimated total costs of $4,000 for the Office of Information Services to create new enforcement codes.

SUPPORT: (Verified 8/25/22)

Center for Public Interest Law (source)
Association for Medical Ethics
Breast Implant Safety Alliance
California Public Interest Research Group
Consumer Attorneys of California
Consumer Federation of California
Consumer Watchdog
Health Access California
Heartland Health Research Institute
Informed Patient Institute
Medical Board of California
Mending Kids
Numerous Individuals

OPPOSITION: (Verified 8/25/22)

Association of Northern California Oncologists
California Academy of Family Physicians
California Chapter American College of Cardiology
California Medical Association
California Rheumatology Alliance
California Society of Plastic Surgeons
Liver Coalition of San Diego

Medical Oncology Association of Southern California
Osteopathic Physicians and Surgeons of California

ARGUMENTS IN SUPPORT: Supporters write that "Financial relationships between physicians and medical product manufacturers are common, and include, but are not limited to, free meals, consulting, speaker fees, direct research funding and payments for promoting and using devices and drugs. These relationships can have many positive outcomes and--particularly in the context of consulting and research funding--are often a key component in the development of new drugs and devices. However, they can also create conflicts of interest and in some cases can blur the line between promotional activities and the conduct of medical research, training, and practice. A 2019 analysis by Pro Publica found that on average, doctors who received payments prescribed 58% more of that drug than doctors who did not. The intent of this legislation to create a stronger patient-doctor relationship through greater transparency, and to empower patients to make informed choices about their health care, and improve patient safely."

ARGUMENTS IN OPPOSITION: Opponents state that this bill diverts crucial patient time to administrative tasks that do not improve patient care…and would require significant resources and be exceedingly time consuming for physician practices, diverting crucial patient time to administrative tasks. Physicians already have limited time with patients. The time should be spent discussing the patient's health, treatment plans, medications, and any health questions the patient may have. Opponents state "existing federal law includes the Physician Payment Sunshine Act, requiring all drug and device companies to publicly report payments made to physicians and teaching hospitals. This information is available for public review on the Open Payments Database website. This federal law provides full transparency. We believe this process is the best way to allow patients to understand a physician's relationship with a pharmaceutical or device company. We are concerned that requiring physicians to biannually provide a written disclosure to patients and then maintain a copy in their medical record will result in additional costs and burdens to physician practices to change their medical record systems. We support helping patients understand the existence of this information and the Open Payments Database but believe AB 1278 will result in additional burdens to physician practices that outweigh any benefit in providing the disclosure."

ASSEMBLY FLOOR: 54-9, 5/3/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Daly, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez,

Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon

NOES: Cunningham, Flora, Gray, Lackey, Mathis, Patterson, Seyarto, Smith, Voepel

NO VOTE RECORDED: Bigelow, Chen, Choi, Cooper, Megan Dahle, Davies, Fong, Frazier, Gallagher, Kiley, Mayes, Nguyen, Quirk, Valladares, Waldron

Prepared by: Sarah Mason / B., P. & E.D. /
8/26/22 15:32:14

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

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THIRD READING

Bill No: AB 1287
Author: Bauer-Kahan (D) and Cristina Garcia (D), et al.
Amended: 8/24/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 7-2, 6/8/22
AYES: Umberg, Durazo, Gonzalez, Hertzberg, Laird, Wieckowski, Wiener
NOES: Borgeas, Jones
NO VOTE RECORDED: Caballero, Stern

SENATE APPROPRIATIONS COMMITTEE: 4-1, 8/11/22
AYES: Portantino, Bradford, Laird, Wieckowski
NOES: Jones
NO VOTE RECORDED: Bates, McGuire

ASSEMBLY FLOOR: 59-0, 1/27/22 - See last page for vote

SUBJECT: Price discrimination: gender

SOURCE: Author

DIGEST: This bill prohibits businesses within California from charging different prices for any two consumer products that are substantially similar, as defined, if the price differential is based on the gender of the individuals for whom the goods are marketed or intended.

Senate Floor Amendments of 8/24/22 (1) specify that, in the event a court finds a violation, the court may impose a penalty on the business of up to $10,000 for the first violation, and up to $1,000 for each subsequent violation (where each instance of discriminatory pricing constitutes a separate violation) with a cap of $100,000 total, except that further penalties may be imposed if the business continues to engage in discriminatory pricing as to the good for which it already received the maximum penalty or is found to have engaged in discriminatory pricing as to a different good; and (2) make other technical revisions for clarity and drafting consistency.

ANALYSIS:

Existing law:

1) Entitles all Californians to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments, thus prohibiting discrimination on any arbitrary basis, including but not limited to sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status. (The Unruh Civil Rights Act, Civ. Code § 51.)

2) Prohibits business establishments from charging different prices for services of similar or like kind based on the consumer's gender. (Gender Tax Repeal Act, Civ. Code § 51.6(b).)

3) Allows price differences based specifically upon the amount of time, difficulty, or cost of providing the services. (Civ. Code § 51.6(c).)

4) Provides that, aside from a specified civil penalty for price list and signage violations, the remedies for a violation of the Gender Tax Repeal Act are the remedies that are generally available for an Unruh Civil Rights Act violation. (Civ. Code § 51.6(d).)

5) Provides that any person who denies, aids or incites a denial, or makes any discrimination or distinction contrary to the Unruh Civil Rights Act or to the Gender Tax Repeal Act, is liable for each and every offense for the actual damages and any amount that may be determined by a jury, or a court sitting without a jury, up to a maximum of three times the amount of actual damage, but in no case less than $4,000, and any attorney's fees that may be determined by the court. (Civ. Code § 52(a).)

This bill:

1) Prohibits any person, firm, partnership, company, corporation, or business from charging a different price for any two personal, family, or household goods that are substantially similar if those goods are priced differently based on the gender of the individuals for whom the goods are marketed and intended.

2) Provides, for purposes of (1), above, that goods are "substantially similar" if they exhibit all of the following characteristics:

a) no substantial differences in the materials used in production;
b) the intended use is similar;
c) the functional design and features are similar; and
d) they are the same brand or both brands are owned by the same individual or entity.

3) Specifies that difference in coloring among any of the goods shall not be construed as a substantial difference.

4) Specifies that nothing in this bill would prohibit differences in the price of goods based on any of the following:

a) the amount of time it took to manufacture those goods;
b) the difficulty in manufacturing those goods;
c) the cost incurred in manufacturing those goods;
d) the labor used in manufacturing those goods;
e) the materials used in manufacturing those goods; or
f) any other gender-neutral reason for charging a different price for the goods.

5) Authorizes the Attorney General, on at least five days' notice to the defendant, to seek an injunction to restrain a violation of (1), above, when the Attorney General has reason to believe such a violation has taken place.

6) Authorizes a court to impose a civil penalty of up to $10,000 for a first violation and up to $1,000 for each subsequent violation, up to a maximum of $100,000.

7) Specifies that each instance of charging different prices for substantially similar goods constitutes a violation.

8) Clarifies that, even after the maximum penalty has been reached, further penalties may be imposed against a business if it continues to violate (1), above, as to the same good, or if it violates (1), above, as to another good.

9) Specifies that the bill does not operated to limit liability under the Unruh Civil Rights Act.

Comments

What is gender-based pricing discrimination or the "pink tax?" Many legitimate factors influence price: materials, labor, research and development costs,

marketing, distribution, and, of course, the classic economic laws of supply and demand. When a business charges different prices based on the customer's gender alone, however, those price disparities constitute discrimination. This form of discrimination is often referred to as a "gender tax" because, although it is not actually a surcharge imposed and collected by the government, gender-based pricing discrimination acts like a tax by imposing extra costs on consumers. Unlike an ordinary tax, however, revenue from gender-based pricing discrimination does not accrue to the community chest, but instead expands the profit margins of private companies. Since gender-based price discrimination disproportionately impacts women and because a common example of this phenomenon involves turning a product pink and then charging more for it on that basis alone, gender-based price discrimination is also often known as "the pink tax."[1]

Evidence of the existence of the pink tax. Evidence from many sources – government, academic, and media – suggests that the pink tax is no trifle. This evidence is detailed in the Senate Judiciary Committee analysis of the bill. Taken together, these studies and reports strongly suggest that, far from abating, the pink tax has persisted across the decades and remains a common phenomenon today. Combined with other forms of financial discrimination – such as the pay gap – the pink tax helps to form a set of insidious and systematic barriers against equal economic opportunity for women, barriers that are even higher for women of color.

Modest remedies available through public enforcement only. In opposing prior legislative efforts to address the pink tax, business associations have argued that robust remedies could stifle product innovation or invite abuse, particularly if enforcement is entrusted to individual consumers, rather than being restricted to public agencies. On the other hand, weak enforcement or meager remedies are unlikely to deter the pink tax. After all, the pink tax generates additional revenue for businesses, so there is an incentive to continue charging it.

As it was introduced, this bill borrowed much of its enforcement regime from a New York State statute that came into effect in 2020. (26 N.Y. GBS § 391-U.) That enforcement regime involves a civil penalty of just $250 for a first violation and $500 for a subsequent violation. Such minimal penalties raise the risk that businesses might be tempted to view the potential fines as little more than a minor cost of doing business.

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[1] The phrase "pink tax" is also sometimes employed in reference to actual, government-imposed taxes on products that women need or purchase far more often than cisgender men. Charging sales tax on tampons is a quintessential example of this form of "pink tax." Though both forms of the pink tax have discriminatory effects on the lives of women, the bill before this Committee focuses on the gender-based pricing discrimination by businesses, rather than gender-based tax discrimination by governments.

Amendments taken by the author mean that the bills penalty structure now departs from the New York State statute. Those amendments significantly increase the potential civil penalties under the bill to $10,000 for a first violation, and $1,000 for each subsequent violation. For purposes of this calculation, each instance of charging a different price for two goods that are substantially similar constitutes a single violation. Thus, discriminatory pricing between two bicycles would yield up to a $10,000 penalty while penalties for a rack of 6 bicycles would be limited to $15,000 ($10,000 for the first bicycle and $1,000 each for the remaining five). However, the bill specifies that the total penalties are capped at $100,000. New penalties can still be assessed, even after the $100,000 cap has been reached, but only if the business continues to violate the prohibition on discriminatory pricing as to the good for which it received the maximum penalty, or as to another good. Otherwise, businesses who had already hit the maximum penalty would have no further deterrent from engaging in further violations.

Since the imposition of these penalties remains exclusively in the hands of the Attorney General, these increases should boost the bill's deterrent effect without causing significant concern among businesses.

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

According to the Senate Appropriations Committee,

- *DOJ:* The Department of Justice (DOJ) reports costs of $221,000 in Fiscal Year (FY) 2022-23, and $388,000 in 2023-24 and annually thereafter for 1.0 permanent Deputy Attorney General position, and 1.0 legal secretary in order to engage in the review of complaints and prosecution of violations of the new law (General Fund). Staff notes that these costs could be offset to some extent by the assessment of civil penalties provided for in the bill.

- *Judicial Branch:* Unknown, potentially significant cost pressures due to increased court workload to adjudicate violations of this measure (Special Fund – Trial Court Trust Fund, General Fund).

SUPPORT: (Verified 8/24/22)

American Association of University Women, California Chapter
American Civil Liberties Union of California
California Commission on the Status of Women and Girls
California Teachers Association

California Women's Law Center
Consumer Federation of California
Democratic Party of Contra Costa County
Equal Rights Advocates
Fund Her
Los Angeles Gay & Lesbian Chamber of Commerce
National Council of Jewish Women, California
Santa Barbara Women's Political Committee
Women's Foundation California

OPPOSITION: (Verified 8/24/22)

None received

ARGUMENTS IN SUPPORT: According to the author:

> Women are charged more and paid less. Gendered pricing or the "Pink Tax" is systemic devaluation of women's economic wellbeing. These higher prices, especially for necessities, augments existing gender inequalities in pay and wealth. By banning the pricing of goods differently based on the gender, AB 1287 will hold companies accountable and eliminate the "Pink Tax" in California once and for all."

The California Teachers Association writes:

> Higher prices for products marketed to women also reinforce gender difference and gender inequity; it incentivizes heavily gendered marketing from early ages. These messages reinforce gender-based stereotypes that are harmful for all children and engrain bias early on. Across our county, about 77 percent of public-school teachers today are female. AB 1287 eliminates one more barrier to gender equality.

ASSEMBLY FLOOR: 59-0, 1/27/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Cervantes, Cooley, Cooper, Daly, Davies, Flora, Fong, Friedman, Gabriel, Cristina Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez,

Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bigelow, Mia Bonta, Carrillo, Chen, Choi, Cunningham, Megan Dahle, Gallagher, Eduardo Garcia, Kiley, Mayes, Nguyen, Patterson, Seyarto, Smith, Voepel, Waldron

Prepared by: Timothy Griffiths / JUD. / (916) 651-4113
8/26/22 15:36:05

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

SENATE RULES COMMITTEE AB 1288
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THIRD READING

Bill No: AB 1288
Author: Quirk-Silva (D)
Amended: 8/22/22 in Senate
Vote: 27

SENATE HOUSING COMMITTEE: 7-0, 5/31/22
AYES: Wiener, Caballero, Cortese, McGuire, Skinner, Umberg, Wieckowski
NO VOTE RECORDED: Bates, Ochoa Bogh

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/15/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: 6-0, 8/11/22
AYES: Portantino, Bradford, Jones, Laird, McGuire, Wieckowski
NO VOTE RECORDED: Bates

ASSEMBLY FLOOR: 58-0, 1/31/22 - See last page for vote

SUBJECT: Income tax credits: low-income housing: California Debt Limit Allocation Committee rulemaking

SOURCE: California Housing Partnership Corporation

DIGEST: This bill allows the Tax Credit Allocation Committee (TCAC), in any calendar year in which the California Debt Limit Allocation Committee (CDLAC) has declared a competition for the award of tax-exempt bond authority for qualified residential rental projects, to reallocate some or all of the $500 million that is made available from 4% tax credit projects to 9% tax credit projects.

Senate Floor Amendments of 8/22/22 clarify how a taxpayer calculates the tax credit amount prior to receiving a specific tax form; and add chaptering amendments for AB 1654 (Rivas).

ANALYSIS:

Existing law:

1) Provides that a low-income housing development that is a new building and is receiving 9% federal Low-Income Housing Tax Credits (LIHTCs) is eligible to receive state LIHTC over four years of 30% of the eligible basis of the building.

2) Provides that a low-income housing development that is a new building that is receiving federal LIHTC and is "at risk of conversion" to market rate is eligible to receive state LIHTC over four years of 13% of the eligible basis of the building.

3) Provides, for 2020 and 2021 calendar years, that up to $500 million may be allocated to 4% tax credit projects pursuant to an authorization in the annual budget or related legislation.

4) Authorizes CDLAC to adopt, amend, or repeal rules and regulations as emergency regulations win accordance with the rulemaking provisions of the Administrative Procedures Act (APA).

5) Requires projects funded by TCAC to begin construction within 180 days of the award. Authorizes the TCAC executive director to extend the 180 days in the event the Governor has declared a state of emergency.

6) Authorizes a taxpayer who receives a tax credit to sell the credit to one or more unrelated parties, as specified.

This bill:

1) Provides up to $500 million to TCAC for the 2020 calendar year, and up to $500 million in the 2021 calendar year and every year thereafter, subject to appropriation in the annual Budget Act.

2) Provides that of the $500 million made available, TCAC may allocate up to $200 million for housing financed by the California Housing Finance Agency (CalHFA) under its Mixed-Income Program (MIP).

3) Provides that for any calendar year in which CDLAC has declared a competition for the award of tax-exempt bond authority for qualified residential rental projects, TCAC may allocate some or all of the credits, except for any credits allocated for housing financed by CalHFA under its MIP, for 9% projects. TCAC shall allocate the remainder of these credits for new buildings

that are federally subsidized and that can begin construction within 180 days from the date of the award.

4) Provides that for any calendar year in which CDLAC has not declared a competition for the award of tax-exempt bond authority for qualified residential rental projects, credits shall be allocated for new buildings that are federally subsidized and that can begin construction within 180 days from the date of the award except for any credits allocated for housing financed by CalHFA under its MIP.

5) Provides that in the event of a state of emergency proclaimed by the Governor, the executive director of TCAC may extend the 180-day construction start deadlines.

6) Authorizes the committee, until January 1, 2028, to adopt, amend, or repeal rules and regulations without complying with the Administrative Procedures Act, except as follows:
   a) The committee shall provide a notice, as specified, that shall be provided to the public at least 21 days before the close of the public comment period, and the committee shall schedule at least one public hearing, as specified, before the public comment period closes.
   b) The committee shall maintain a rulemaking file, as specified, and the final regulation shall be accompanied by a final statement of reasons, as specified.
   c) The committee may also adopt, amend, or repeal emergency rules and regulations.

7) Provides that on January 1, 2028, the committee may adopt, amend, or repeal rules and regulations pursuant to this chapter as emergency regulations in accordance with the APA, as specified.

8) Requires projects funded by TCAC to begin construction within a reasonable time, as determined by TCAC.

9) Requires a taxpayer who purchases a tax credit to be eligible to claim that credit in the taxable year the building is placed in service, as specified.

Background

The federal LIHTC program. The LIHTC is an indirect federal subsidy developed in 1986 to incentivize the private development of affordable rental housing for low-income households. The federal LIHTC program enables low-income housing sponsors and developers to raise project equity through the allocation of tax benefits to investors. TCAC administers the program and awards credits to

qualified developers who can then sell those credits to private investors who use the credits to reduce their federal tax liability. The developer in turn invests the capital into the affordable housing project.

Two types of federal tax credits are available: the 9% and 4% credits. These terms refer to the approximate percentage of a project's "eligible basis" a taxpayer may deduct from their annual federal tax liability in each year for 10 years. "Eligible basis" means the cost of development excluding land, transaction costs, and costs incurred for work outside the property boundary. For projects that are not financed with a federal subsidy, the applicable rate is 9%. For projects that are federally subsidized (including projects financed more than 50% with tax-exempt bonds), the applicable rate is 4%. Although the credits are known as the "9% and 4% credits," the actual tax rates fluctuate every month, based on the determination made by the Internal Revenue Service on a monthly basis. Generally, the 9% tax credit amounts to 70% of a taxpayer's eligible basis and the 4% tax credit amounts to 30% of a taxpayer's eligible basis, spread over a 10-year period.

Each year, the federal government allocates funding to the states for LIHTCs on the basis of a per-resident formula. In California, TCAC is the entity that reviews proposals submitted by developers and selects projects based on a variety of prescribed criteria. Only rental housing buildings, which are either undergoing rehabilitation or newly constructed, are eligible for the LIHTC programs. In addition, the qualified low-income housing projects must comply with both rent and income restrictions.

Each state receives an annual ceiling of 9% federal tax credits and they are oversubscribed by a 3:1 ratio. Unlike 9% LIHTC, federal 4% tax credits are not capped; however, they must be used in conjunction with tax-exempt private activity mortgage revenue bonds, which are capped and are administered by the CDLAC. In 2020, the state ceiling for private activity bonds was set at $4.1 billion. The value of the 4% tax credits is less than half of the 9% tax credits and, as a result, 4% federal credits are generally used in conjunction with another funding source, like state housing bonds or local funding sources.

The state LIHTC program. In 1987, the Legislature authorized a state LIHTC program to augment the federal tax credit program. State tax credits can only be awarded to projects that have also received, or are concurrently receiving, an allocation of the federal LIHTCs. The amount of state LIHTC that may be annually allocated by the TCAC is limited to $70 million, adjusted for inflation. In 2020, the total credit amount available for allocation was about $100 million plus any unused or returned credit allocations from previous years. Current state tax

law generally conforms to federal law with respect to the LIHTC, except that it is limited to projects located in California.

While the state LIHTC program is patterned after the federal LIHTC program, there are several differences. First, investors may claim the state LIHTC over four years rather than the 10-year federal allocation period. Second, the rates used to determine the total amount of the state tax credit (representing all four years of allocation) are 30% of the eligible basis of a project that is not federally subsidized and 13% of the eligible basis of a project that is federally subsidized, in contrast to 70% and 30% (representing all 10 years of allocation on a present-value basis), respectively, for purposes of the federal LIHTCs. Furthermore, state tax credits are not available for acquisition costs, except for previously subsidized projects that qualify as "at-risk" of being converted to market rate.

Combining federal 9% credits (which amounts to roughly 70%) with state credits (which amounts to 30%) generally equals 100% of a project's eligible basis. Combining federal 4% credits (which amounts to roughly 30%) with state credits (which amounts to 13%), only results in 43% of a project's eligible basis.

Comments

1) *Author's statement*. Per the author, "AB 1288 will increase the impact of the state's additional investment in Low-Income Housing Tax Credits by deploying these credits more effectively. The current pairing of these state credits with 4% federal credits no longer makes sense at a time when there is a massive backlog of developments seeking 4% federal credits. The line just becomes longer. By granting the Tax Credit Allocation Committee the authority to move these credits to the unconstrained 9% federal tax credit program, California can increase the overall production of new affordable homes."

2) *Effect of Bond Caps.* The 9% credit is first allocated to each state according to its population. In 2021, states were projected to receive LIHTC allocation authority equal to $2.8125 per person, with a minimum small population state allocation of $3,245,625.13. These allocation limits, however, do not apply to 4% credits. The 4% credit is unlimited so long as the project is at least 50% financed with tax-exempt bonds. Therefore, the limiting factor for the 4% credit comes from the overall bond volume cap. As of 2020, California's bond volume cap was $4.1 billion.

3) *$500 million to increase affordable housing production*. On July 31, 2019, AB 101 (Budget Committee, Chapter 159), was signed into law, providing an additional $500 million in state LIHTCs. When the additional $500 million was

first made available, the federal tax-exempt bond ceiling of approximately $4 billion had not yet been reached. In 2014, for example, developers only used $80.5 million in annual federal 4% tax credits, significantly less than prior years. This is because, unlike in prior years, there was little supplemental funding from housing bonds or local funding sources to fill the remaining financing gap. The loss of redevelopment funding and state housing bond funds, which were used in combination with 4% federal credits to achieve higher affordability, had made the 4% federal credits less effective.

The additional $500 million was coupled with tax-exempt bonds and the 4% credit, in part, to encourage developers to fully utilize any remaining federal tax-exempt bonds that were being left on the table. After the $500 million was made available, due to significant state and local housing construction funding, 4% credit applications increased significantly and the bonds became oversubscribed. As a result, CDLAC instituted a competitive process for awarding tax-exempt bonds. The Legislature approved another one time $500 million allocation in the 2021-22 Budget, and the Governor's 2022-23 January budget proposes a third one-time $500 million infusion in the program.

4) *Benefits of $500 million diminish once bond cap is reached*. As noted earlier, the limitation on the 4% credit comes from the bond volume cap, not the credit. Once the cap is met, the number of additional projects (and to a certain degree units) that can be approved under the 4% credit substantially tapers off. Therefore, continuing to provide $500 million in state credits to 4% credit projects under these conditions will not lead to an increase in the number of total units being built. To truly increase the number of projects approved under the 4% credit, modifications would have to be made to the tax-exempt bond requirements, and California does not have the authority to make those changes.

   Projects under the 9% credit, on the other hand, are not limited by the availability of bonds. Projects under the 9% credit are only limited by the availability of credits. All things being equal, if the state provides more LIHTCs under the 9% credit, more units will be built. Therefore, transferring some or all of the $500 million LIHTCs from the 4% credit to the 9% credit when the bond cap has been met, as this bill allows, may actually lead to more housing units being built for the same amount of money.

5) *More transparency*. Current law authorizes CDLAC to adopt regulations pursuant to the APA. With the increased competition for bonds, the committee has embarked on several changes to its regulations in recent years. This bill proposes to remove the requirement for these regulation changes to go through

the APA process, thus reducing the overall length of time to make regulatory changes. However, to strike a balance and ensure more transparency and opportunity for stakeholder engagement, this bill specified timelines for notice, hearings, and comments to any future regulation changes, which shall remain operative until January 1, 2028, at which time the prior process shall revert.

6) *Construction dates*. TCAC projects that receive a bond award are required to commence construction within 180 days of receipt of their award. The intent to award projects that are "shovel ready." In the advent of COVID-19 and changing market conditions – much of which is outside of the control of the applicants – many projects have been unable to achieve this requirement. This bill proposes to authorize TCAC to require projects to commence construction, instead, within a reasonable time, as determined by TCAC.

7) *Certificated credits*. TCAC awards credits to qualified developers. Generally, developers do not have sufficient tax liability to use the credits themselves so they sell those credits to private investors who use the credits to reduce their federal or state tax liability. The developer in turn invests the capital into the affordable housing project.

   In 2016, the Legislature created an alternative investment structure, which sought to increase the value of the state credit, called "certificated credits." Under this model, developers can sell the credits to an investor without requiring the investor to be part of the ownership entity for the project, typically a limited liability partnership, which have increased the value of the credit. In recent years, around half of the projects receiving state credits chose to "certificate" their credits.

   In order to claim the "certificated credits," the Franchise Tax Board requires specified tax forms to be completed by the investor. According to the sponsor, however, it can take time for CDLAC to provide the appropriate forms to the investor, sometimes years. This bill allows investors who buy the credits to begin claiming them in the year that the development is occupied, increasing the price investors will pay for the credits. According to the sponsor, this will reduce the amount of credits each development needs. This provision is consistent with rules governing federal tax credits.

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

According to the Senate Appropriations Committee:

- CTCAC indicates that it would incur annual costs of $342,000 for 2.0 PY of staff to handle an increased volume of credit applications and workload. Staff notes that CTCAC's state operations are funded by fees charged to applicants. (Tax Credit Allocation Fee Account)
- Unknown General Fund cost pressures, to the extent the flexibility provided in this bill increases demand for the additional LIHTC funding provided in the annual Budget Act each year. Staff notes that the LIHTC program is oversubscribed.

SUPPORT: (Verified 8/22/22)

California Housing Partnership Corporation (source)
California State Treasurer
California Bankers Association
California Housing Consortium
East Bay Housing Organizations
Eden Housing
Midpen Housing Corporation
SV@Home Action Fund

OPPOSITION: (Verified 8/22/22)

None received

ASSEMBLY FLOOR: 58-0, 1/31/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Friedman, Gabriel, Cristina Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, 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, Stone, Ting, Villapudua, Voepel, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bigelow, Chen, Choi, Megan Dahle, Davies, Flora, Fong, Gallagher, Eduardo Garcia, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Waldron

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
8/23/22 13:23:23

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

SENATE RULES COMMITTEE AB 1290
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1290
Author: Lee (D)
Amended: 8/25/22 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 6/28/22
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

SENATE FLOOR: 38-0, 8/18/22
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Durazo, Roth

ASSEMBLY FLOOR: Not relevant

SUBJECT: Crimes: theft: animals

SOURCE: Author

DIGEST: This bill amends existing statutes related to the theft of a dog and instead applies them to the theft of a companion animal, as defined.

Senate Floor Amendments of 8/25/22 strike the prior version of this bill and instead amend existing statutes related to the theft of a dog and instead apply them to the theft of a companion animal, as defined.

ANALYSIS:

Existing law:

1) States that every person who steals, takes, carries, leads, or drives away the personal property of another, or who fraudulently appropriates property which

has been entrusted to them, or who knowingly and designedly, by any false or fraudulent representation or pretense, defrauds any other person of money, labor or real or personal property, is guilty of theft. (Pen. Code §484, subd. (a).)

2) Divides theft into two degrees, petty theft and grand theft. (Pen. Code §486.)

3) Defines grand theft as when the money, labor, or real or personal property taken is of a value exceeding $950 dollars, except as specified; other cases of theft are petty theft. (Pen. Code §§487-488.)

4) Punishes grand theft as an alternate felony-misdemeanor ("wobbler"). (Pen. Code §487.)

5) Punishes petty theft as a misdemeanor. (Pen. Code §490.)

6) Provides that in determining the value of the property obtained, for the purposes of theft, the reasonable and fair market value shall be the test, and in determining the value of services received the contract price shall be the test. If there is no contract price, the reasonable and going wage for the service rendered shall govern. (Pen. Code §484, subd. (a).)

7) States that every person who feloniously steals, takes, or carries away a dog of another which is of a value not exceeding $950 is guilty of petty theft. (Pen. Code §487f.)

8) States that every person who feloniously steals, takes, or carries away a dog of another which is of a value exceeding $950 is guilty of grand theft. (Pen. Code §487e.)

9) States that dogs are personal property, and their value is to be ascertained in the same manner as the value of other property. (Pen. Code §491.)

10) Defines a "feral cat" as "a cat without owner identification of any kind whose usual and consistent temperament is extreme fear and resistance to contact with people. A feral cat is totally unsocialized to people." (Food & Ag. Code §31752.5.)

This bill:

1) Amends existing provisions related to the theft of a dog and instead applies them to the theft of a companion animal, as defined.

2) Defines "companion animal" to mean "an animal including, but not limited to, a dog or a cat, that a person keeps and provides care for as a household pet or otherwise for the purpose of companionship, emotional support, service, or protection."

3) Provides that a "companion animal" excludes feral cats, as defined in Food and Agriculture Code Section 31752.5.

Comments

According to the author:

> Theft is defined as stealing, taking, carrying, leading, or driving away the personal property of another, or fraudulently appropriating property which has been entrusted to the individual, or who knowingly and designedly, by any false or fraudulent representation or pretense, defrauding any other person of money, labor or real or personal property. (Pen. Code §484.) When the same act involves taking money, labor, real or personal property where the value of the time taken exceeds $950, the crime is punishable as grand theft which may be charged as an alternate felony-misdemeanor. (Pen. Code §487.) All other theft which does not exceed $950 in value is petty theft. (Pen. Code §488.)
>
> Existing statutes also specify various different items where the value of the items taken exceeds $950 is grand theft (see Pen. Code §§487h, 487j and 487k: cargo, copper materials, agricultural equipment) or where the value does not exceed $950 yet the act is statutorily deemed grand theft (see Pen. Code §§487, subd. (d), 487a, 487d: theft of a firearm, automobile, livestock or gold dust) and where a lower value will still count as grand theft (see Pen. Code §487, subd. (b) domestic fowls, avocados, olives, citrus or deciduous fruits, other fruits, vegetables, nuts, artichokes, or other farm crops, or fish, shellfish, mollusks, crustaceans, kelp, algae, or other aqua cultural products are taken from a commercial or research operation.) Existing law contains specific statutes on dog stealing and states that when the value of the dog does not exceed $950, the act is petty theft and if the value of the dog exceeds $950, the act is grand theft. (Pen. Code §§487e and 487f.) Existing law also declares that dogs are personal property and their value is to be ascertained in the same manner as the value of other property. (Pen. Code §491.)

. . . .

According to the author, this change is needed because currently the existing statute only declares dogs to be personal property. However, the lack of this declaration for other companion animals does not preclude the applicability of the general theft and grand theft statutes. It has acknowledged both by general society and by the courts that pets are the property of their owners. (*Kimes v. Grosser* (2011) 195 Cal. App. 4th 1556, 1559, *citing Dreyer v. Cyrian* (1931) 112 Cal. App. 279, 284 and *Ross v. Loeser* (1919) 41 Cal. App. 782, 784.)

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

SUPPORT: (Verified 8/23/22)

Humane Society of the United States
Los Angeles County District Attorney's Office
Los Angeles County Sheriff's Department
Social Compassion in Legislation

OPPOSITION: (Verified 8/23/22)

None received

Prepared by: Stella Choe / PUB. S. /
8/26/22 15:36:06

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

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THIRD READING

Bill No: AB 1307
Author: Cervantes (D), et al.
Amended: 6/27/22 in Senate
Vote: 21

SENATE ELECTIONS & C.A. COMMITTEE: 3-1, 6/13/22
AYES: Newman, Hertzberg, Leyva
NOES: Nielsen
NO VOTE RECORDED: Glazer

SENATE GOVERNANCE & FIN. COMMITTEE: 4-1, 6/22/22
AYES: Caballero, Durazo, Hertzberg, Wiener
NOES: Nielsen

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 53-15, 1/27/22 - See last page for vote

SUBJECT: County of Riverside Citizens Redistricting Commission

SOURCE: Author

DIGEST: This bill establishes the County of Riverside Citizens Redistricting Commission (CRCRC) to be tasked with adjusting the boundary lines of the supervisorial districts of Riverside County, as specified.

ANALYSIS:

Existing law:

1) Requires the board of supervisors of each county, following each federal decennial census, to adopt boundaries for all of the supervisorial districts of the

county so that the supervisorial districts are substantially equal in population as required by the United States Constitution. Requires population equality to be based on the total population of residents of the county as determined by the most recent federal decennial census for which specified redistricting data are available, as specified.

2) Requires the board of supervisors to adopt supervisorial district boundaries using a specified criteria and process.

3) Authorizes a county, general law city, school district, community college district, or special district to establish an independent redistricting commission, an advisory redistricting commission, or a hybrid redistricting commission by resolution, ordinance, or charter amendment, subject to certain conditions and as specified.

4) Establishes a procedure for a government of a county to adopt a charter by a majority vote of its electors voting on the question. Generally provides greater autonomy over county affairs to counties that have adopted charters. Provides that counties that have adopted charters are subject to statutes that relate to apportioning population of governing body districts.

5) Establishes a Citizens Redistricting Commission in Los Angeles County and an Independent Redistricting Commission in San Diego County, and charges the commissions with adjusting districts of supervisorial districts after each decennial federal census, as specified.

This bill:

1) Provides for the creation of the CRCRC, and tasks the CRCRC with adjusting the boundary lines of Riverside County's supervisorial districts in the year following the year in which the decennial federal census is taken. Requires the CRCRC to be created no later than December 31, 2030, and in each year ending in the number zero thereafter.

2) Requires the CRCRC to consist of 14 members who meet specified requirements. Requires at least one CRCRC member to reside in each of the five existing county supervisorial districts. Requires the political party preferences of the CRCRC members to be as proportional as possible to the total number of voters who are registered with each political party in Riverside County, or who decline to state or do not indicate a party preference, as

determined by registration at the most recent statewide election, as specified.

3) Establishes a process for interested individuals to submit an application to become a CRCRC member, as specified. Creates a process for the county elections official to narrow the application pool, as specified.

4) Requires, at a regularly scheduled meeting of the board of supervisors, the Auditor-Controller of Riverside County to conduct a random drawing to select one commissioner from each of the five subpools established by the county elections official, and to then conduct a random drawing from all of the remaining applicants to select three additional commissioners.

5) Requires the eight selected commissioners to review the remaining names in the subpools of applicants and to appoint six additional applicants to the CRCRC, as specified.

6) Provides the term of office of each member of the CRCRC expires upon the appointment of the first member of the succeeding commission.

7) Requires the board of supervisors to provide for reasonable funding and staffing for the CRCRC. Requires each CRCRC member to be a designated employee for purposes of the conflict of interest code adopted by Riverside County, as specified.

8) Provides that nine members of the CRCRC constitute a quorum and that nine or more affirmative votes are required for any official action.

9) Prohibits the CRCRC from retaining a consultant who would not be qualified as a CRCRC applicant due to any of the disqualifying criteria, as specified.

10) Requires the CRCRC to establish single-member supervisorial districts for the board of supervisors pursuant to a mapping process using a specified criteria and requirements. Requires the CRCRC to adopt a redistricting plan adjusting the boundaries of the supervisorial districts and to file the plan with the county elections official by the map adoption deadline set forth in existing law for county supervisorial maps, as specified. Requires the CRCRC to issue, with the final map, a report that explains the basis on which the CRCRC made its decisions in achieving compliance with the specified criteria and requirements provided by this bill.

11) Requires the CRCRC, prior to drawing a draft map, to conduct at least seven public hearings, to take place over a period of no fewer than 30 days, with at least one public hearing held in each supervisorial district, as specified.

12) Requires the CRCRC, after drawing the draft maps, to post the map for public comment on Riverside County's website and conduct at least two public hearings to take place over a period of no fewer than 30 days.

13) Requires the CRCRC to establish and make available to the public a calendar of all public hearings, requires the hearings to be scheduled at various times and days of the week to accommodate a variety of work schedules to reach as large an audience as possible, and requires the CRCRC to arrange for the live translation of a hearing if requested, as specified. Requires the CRCRC to post the agenda for the public hearings at least seven days before the hearings. Requires the agenda for a meeting conducted after the CRCRC has drawn a draft map to include a copy of that map.

14) Requires the CRCRC to take steps to encourage county residents to participate in the redistricting public review process, as specified.

15) Requires the board of supervisors to take steps necessary to ensure that a complete and accurate computerized database is available for redistricting, and that procedures provide the public with access to redistricting data and software equivalent to what is available to the CRCRC members, as specified.

16) Requires all records of the CRCRC relating to redistricting, and all data considered by the CRCRC in drawing a draft map or the final map, to be public records.

17) Provides for various prohibitions for CRCRC members beginning from the date of appointment to the CRCRC, as specified.

18) Makes findings and declarations that a special law is necessary because of the unique circumstances facing Riverside County.

Background

Riverside County Redistricting. Riverside County, at roughly 2.4 million residents, is the 10th most populous county in the nation and the fourth most populous county in California. Its redistricting process, like most California counties,

remains in the hands of the county's board of supervisors. While the county's planning commission acts as an advisory redistricting commission for the county, the board retains authority over approving district maps.

According to multiple news reports, the county's most recent redistricting effort was fraught with controversies. A committee of senior county officials initially drew four maps that immediately faced backlash, primarily from community members and legislators representing the county who alleged the maps were "drawn with a clear intent to protect certain incumbent supervisors and dilute the influence of Latino voters." Latinos make up 49.7% of Riverside County's residents and the county's Hispanic or Latino population grew at a faster rate than the overall population over the past decade, up 20.8% from the 2010 U.S. Census. However, the county board of supervisors' first-ever Latino member, appointed in 2017, remains its only Latino supervisor.

The American Civil Liberties Union and the Mexican American Legal Defense and Education Fund (MALDEF) also took issue with the maps, claiming they violated the law and failed to include citizen voting age population data. A number of other concerns were raised throughout the process, including: representation for other groups such as African American voters and the Morongo Band of Mission Indians; a desire to keep certain cities or other geographic areas intact; an apparent lack of transparency; and, a seemingly rushed process. County officials argued that delays in obtaining census data created a much tighter timeline for drawing new districts than in prior redistricting efforts, a conundrum for all redistricting efforts statewide.

Multiple organizations and individuals advocated for maps with at least two Latino-majority supervisorial districts. In addition, a report released by the UCLA Voting Rights Project found the county could be at risk of legal action if the board failed to create two such districts. After reviewing multiple maps, some of which were proposed by community groups, the board narrowed their options to three maps – one of which included two Latino-majority supervisorial districts and two of which did not. The board ultimately selected a map that contains only one Latino-majority district, refueling concerns that the county could be at risk of legal challenge. A similar scenario played out in Kern County, which ultimately reached a court agreement with MALDEF in 2018 to redraw its 2011 maps to create a second Latino-majority district.

Comments

According to the author, AB 1307 would help provide fairer boundaries for Riverside County's supervisorial districts by creating an independent citizens redistricting commission for the County. This bill advances the ongoing movement away from allowing California's elected officials to draw their own district boundaries, and instead entrust impartial, independent citizens redistricting commissions to do so.

The need for this bill has also been illustrated by the comportment of the Riverside County Board of Supervisors in redrawing their own districts after the 2020 Census. The map adopted by a majority of the Board of Supervisors in December 2021 appears to violate state and federal law. This failure of a majority of the Board of Supervisors to protect the voting rights of the Latinx community illustrates why an independent citizens redistricting commission is needed to draw fair maps for Riverside County.

Related/Prior Legislation

AB 2030 (Arambula, 2022) creates a Citizens Redistricting Commission in Fresno County, as specified.

AB 2494 (Salas, 2022) creates a Citizens Redistricting Commission in Kern County, as specified.

SB 158 (Allen, Chapter 107, Statutes of 2020) clarified that voters who are registered with no party preference are eligible to serve on the Los Angeles County Citizens Redistricting Commission.

SB 139 (Allen, 2019) would have required a county with a population of 400,000 or more to establish an independent redistricting commission to adopt the county supervisorial districts after each federal decennial census. SB 139 was vetoed by the Governor with the following message:

> This bill requires a county with more than 400,000 residents to establish an independent redistricting commission tasked with adopting the county's supervisorial districts following each federal decennial census.
>
> While I agree these commissions can be an important tool in preventing gerrymandering, local jurisdictions are already authorized to establish

independent, advisory or hybrid redistricting commissions. Moreover, this measure constitutes a clear mandate for which the state may be required to reimburse counties pursuant to the California Constitution and should therefore be considered in the annual budget process.

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

According to the Senate Appropriations Committee:

- This bill would not have a fiscal impact to the SOS.

- By requiring Riverside County to create and operate a redistricting commission as specified, this bill creates a state-mandated local program. To the extent the Commission on State Mandates determines that the provisions of this bill create a new program or impose a higher level of service on Riverside County, the County could claim reimbursement of those costs (General Fund). The magnitude of these costs is unknown, but minimally in the hundreds of thousands on a decennial basis.

- The 2022-23 enacted budget (SB 154, Skinner) includes, upon enactment of this bill, $1 million to CRCRC for the redistricting to take place in 2030.

SUPPORT: (Verified 8/12/22)

American Civil Liberties Union California Action
California Environmental Voters
Dolores Huerta Foundation
Inland Equity Partnership
League of Women Voters of California

OPPOSITION: (Verified 8/12/22)

None received

ASSEMBLY FLOOR: 53-15, 1/27/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Cervantes, Cooley, Cooper, Daly, Friedman, Gabriel, Cristina Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz

Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Choi, Cunningham, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Voepel
NO VOTE RECORDED: Mia Bonta, Carrillo, Chen, Megan Dahle, Eduardo Garcia, Mayes, Valladares, Waldron

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8/13/22 12:11:06

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

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THIRD READING

Bill No: AB 1322
Author: Robert Rivas (D) and Muratsuchi (D)
Amended: 8/25/22 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 4-0, 6/8/22
AYES: Allen, McGuire, Skinner, Wieckowski
NO VOTE RECORDED: Bates, Dahle, Stern

SENATE APPROPRIATIONS COMMITTEE: 5-0, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NO VOTE RECORDED: Bates, Jones

ASSEMBLY FLOOR: 49-22, 5/10/21 - See last page for vote

SUBJECT: California Global Warming Solutions Act of 2006: aviation greenhouse gas emissions reduction plan

SOURCE: Sustainable Aviation Fuel Coalition

DIGEST: This bill requires the California Air Resources Board (ARB) to, on or before July 1, 2024, develop a plan to reduce aviation greenhouse gas (GHG) emissions in consultation with specified agencies and stakeholders. It stipulates ARB shall include sustainable aviation fuel (SAF) and other technologies (as feasible), directs ARB to evaluate and increase the incentives that exist for the production of SAF, and includes numerous other elements in the plan, which is to be implemented by December 31, 2025.

Senate Floor Amendments of 8/25/22 change the target of the bill from a 1.5 billion gallon SAF goal to instead be for 20% "sustainable fuel" to align with the Governor's stated goals, make implementation of the plan contingent upon an appropriation, and make other conforming changes.

ANALYSIS:

Existing law:

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

2) Requires ARB to ensure that statewide GHG emissions are reduced to at least 40% below the 1990 level by December 31, 2030 (i.e., SB 32); and allows ARB, until December 31, 2030, to adopt regulations that utilize market-based compliance mechanisms (i.e., the cap-and-trade program) to reduce GHG emissions. (HSC §§ 38566, 38562)

3) Establishes the Greenhouse Gas Reduction Fund (GGRF) in the State Treasury, requires all moneys, except for fines and penalties, collected pursuant to a market-based mechanism be deposited in the fund. (Government Code §16428.8)

This bill:

1) Requires ARB to, on or before July 1, 2024, develop a plan (Plan) to reduce aviation GHG emissions and help the state reach its goal of net-zero GHG emissions by 2045, including a sustainable fuels target for the aviation sector of at least 20 percent by 2030.

2) Requires ARB to, contingent upon an appropriated by the Legislature, on or before July 1, 2024, implement the Plan.

3) Stipulates that, in preparing the Plan, ARB shall:
   a) Include strategies to reduce GHG emissions through the increased production and use of sustainable fuels, including but not limited to SAF and, to the extent feasible, other alternatives such as electric- and hydrogen-powered propulsion;
   b) Consult with the Natural Resources Agency, Department of Forestry and Fire Prevention, California Environmental Protection Agency, State Energy Resources Conservation and Development Commission, and the Governor's Office of Business and Economic Development;

c) Consult with state commercial airports, airlines, aircraft manufacturers, SAF producers, and infrastructure providers;
d) Evaluate, model, and create incentives to increase SAF production and import in the state;
e) Identify and prioritize incentives for SAF that achieve the most cost effective GHG emission reductions;
f) Closely examine the shortfall that exists in the state GHG emissions policy framework with respect to incentives for SAF and the decarbonization of the aviation sector, and seek to address that shortfall through new incentives;
g) Maximize reductions in wildfire risk by prioritizing and expediting review of SAF from certain feedstocks under the Low Carbon Fuel Standard (LCFS), and specifies considerations;
h) Evaluate the incentive amounts that would be required to encourage aircraft to voluntarily use cleaner fuels;
i) Evaluate the direct benefits and cobenefits of SAF, as specified; and
j) Identify the following:
    i) Barriers and possible solutions to achieving the aviation GHG emission reduction goals stated above;
    ii) Milestones towards achieving those goals;
    iii) Actions that can be taken by the state to ensure that the state's policy incentives for SAF are comparable to those provided to renewable diesel and other on-road fuels to ensure that SAF production capacity is sufficiently expanded; and
    iv) Tools for increasing the state's SAF supply and demand.

Background

1) *California's aviation emissions*. Aircraft jet engines emit a mixture of CO2, water vapor, oxides of nitrogen (NOx), particulate matter (PM), carbon monoxide, and other pollutants. Of these, 90% of the emissions from a flight occur at altitudes above 3,000', with only 10% being released during taxiing, takeoff, and landing. According to the U.S. Energy Information Administration, California's total 2020 jet fuel consumption was 59,442,000 barrels, or roughly 2.5 billion gallons.

   According to ARB's GHG emission inventory, intrastate (that is, the origin and destination are both within California) flights account for roughly 1.1% of statewide covered GHG emissions. Given the small contribution to overall state GHG emissions, aviation was not mentioned in the 2017 scoping plan update.

2) *Sustainable aviation fuel (SAF)*. SAF is a "drop in" replacement for conventional jet fuels; it is blended with conventional jet fuel and handled with the same conventional jet fuel infrastructure. It can be produced from renewable, carbon-rich materials such as biomass, municipal solid waste (MSW), oils, fats, sugars, or alcohols. Given the technology is still relatively immature and being developed, SAF is currently much more expensive than conventional jet fuel (roughly five times more), a fact that remains even after factoring in state and federal policy credits. However, on a life cycle basis it has roughly 80% lower associated emissions than conventional fuel. The majority of California's current and expected SAF supply comes from four facilities: World Energy in Paramount, CA (using mainly cooking oil as a feedstock), Neste in Singapore, Fulcrum Energy in Nevada (using mostly MSW and select organic waste), and Red Rock Energy in Oregon (using woody biomass).

   According to a 2019 SAF feasibility study conducted for San Francisco International Airport (SFO) World Energy (stated to be the only commercial-scale SAF producer at the time) produced 10 million gallons of SAF annually (though it is unlikely this was all used in flights). For comparison, according to the federal Energy Information Administration, California (the country's largest consumer of jet fuel) consumed 106,201 thousand barrels of jet fuel in 2019, or 4.46 billion gallons. In other words, California made, at most, roughly 0.2% as much SAF as it consumed in jet fuel.

3) *Low Carbon Fuel Standard*. ARB adopted the LCFS regulation in 2009 and began implementing it in 2010. The primary purpose of LCFS is to reduce GHG emissions by reducing the carbon intensity (CI) of fuels used in California and to diversify the fuel mix to enable long-term decarbonization of the transportation sector.

   Sustainable aviation fuel has an approved pathway under LCFS, despite the fact that aviation fuels do not generate deficits under the LCFS like gasoline and diesel do. In 2020, the SAF LCFS pathway generated 0.2% of all LCFS credits for that year.

4) *Other technologies.* While SAF is the most mature technology for decarbonizing aviation, it is neither carbon-free nor the only option. Battery-electric planes struggle with the power-to-weight ratio of batteries, though a number of startups and researchers are developing the technology. Hydrogen, when compressed and stored as a liquid, can be much more energy dense than batteries, while both technologies are zero-emission in the aircraft. Many

barriers remain today, but hydrogen-powered aircraft could play a major role in a fully-decarbonized aviation industry in the future.

One other option to reduce the use of fossil fuels in aviation is synthetic fuel. Synthetic jet fuel is made directly from hydrogen and carbon—potentially even carbon captured from the atmosphere. This synthetic fuel is considerably too expensive to be viable today, but research is underway.

5) *Aviation in the 2022 scoping plan update*. In the latest public draft of the 2022 scoping plan update, released May 10, 2022, the proposed scenario does model aviation. Specifically, it predicts 10% of aviation fuel demand being met by electricity or hydrogen in 2045, and states that, "SAF meets most of the rest of the aviation fuel demand that has not already transitioned to hydrogen or batteries."

   Delving into the sectoral modeling in Appendix H of the scoping plan update, it appears that conclusion derives from an assumption that the state will transition to 100% SAF by 2040, and all of the state's available fat, oil, and grease feedstocks will be used first for SAF, with the remainder going to renewable diesel. This assumption does not appear to be further explained or justified, and achieving it would represent a massive, unprecedented increase in SAF production. For comparison, by 2040 in the European Union's aggressive proposal for increasing SAF, airplane fuel will need to be a blend with 32% SAF in 2040. The draft scoping plan SAF assumptions have not, to staff's knowledge, been publically discussed or contemplated by this committee.

Comments

1) *Purpose of Bill.* According to the author, "Global greenhouse gas emissions (GHG) are already driving catastrophic climate change. In 2015, commercial aviation in California accounted for an estimated 36 million metric tons of carbon dioxide. Sustainable Aviation Fuel is a cleaner alternative to traditional jet fuel and is the most significant pathway for commercial aviation to reduce emissions. While California leads in sustainable aviation fuel deployment in the US, using approximately 99% of the nation's sustainable aviation fuel supply in 2020, this supply represents less than 0.0025% of the state's jet fuel use. To prevent and combat the most harmful impacts of climate change, we must leverage all possible options to minimize GHG emissions.

   "The use and further production of sustainable aviation fuel can reduce lifecycle carbon by 80% compared to traditional petroleum-based jet fuel. AB

1322 will require the Air Resources Board to develop and implement a plan to identify incentive-based best practices that promote the use of SAF to help meet the state's goal of net-zero greenhouse gas emissions by 2045. AB 1322 takes bold, necessary steps to ensure that our aviation industry can join the fight against the devastating impacts of climate change and help California achieve our ambitious GHG reduction goals on time."

2) *Scrapping for scraps.* Typically, the most cost-effective, sustainable feedstock to use for SAF (or other biofuel) production is some sort of waste. At the volume of biofuel required to completely replace existing fossil fuels (be they diesel with biodiesel, natural gas with renewable natural gas, or jet fuel with SAF), there will simply not be enough waste to go around. Moreover, as demand for biofuels and supply of waste feedstocks reach the point that it becomes more economical to use purpose-grown crops (such as palm for palm oil), the issue of land-use changes becomes hugely important.

   Thus, charting the path for future biofuel use in California is not a question of backing any and all promising candidates, but rather one of allocating a limited resource for the greatest public benefit. Specifically, the question at hand with SAF and this bill seems to be: what use of biofuel feedstocks best advances the state's goals?

   To be clear, this is not to say that California should not produce SAF, nor that the state can only invest in one biofuel technology. But in deliberating on this bill specifically—and on the future of waste-derived biofuels in general—the Legislature should bear in mind the complex interplay of fuels and feedstocks, and prioritize support accordingly.

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

According to the Senate Appropriations Committee:

- Unknown one-time costs, likely in the millions of dollars (Cost of Implementation Account), for ARB to develop the plan and implement it through the Low Carbon Fuel Standard and other mechanisms.

- Unknown but potentially significant cost pressure (various funds) to provide additional funding for any programs, incentives, or mechanisms identified in the plan to reduce aviation GHGs.

SUPPORT: (Verified 8/26/22)

Sustainable Aviation Fuel Coalition (source)
350 Humboldt: Grass Roots Climate Action
Alaska Airlines
Alder Fuels
Amazon.com
Boeing Company
Burbank-Glendale-Pasadena Airport Authority
California Airports Council
California Chamber of Commerce
Ceres, Inc.
City of Long Beach
City of Los Angeles
City of San Jose
Coalition for Clean Air
Fulcrum Bioenergy Inc.
General Aviation Manufacturers Association
Helicopter Association International
Lanzajet
Long Beach Area Chamber of Commerce
Los Angeles Area Chamber of Commerce
Los Angeles County Business Federation, Bizfed
Los Angeles World Airports - City of Los Angeles
Los Angeles World Airports Authority
Move La, a Project of Community Partners
National Air Transportation Association
National Business Aviation Association
Nature Conservancy
Neste Us, Inc.
Paramount Chamber of Commerce
San Diego County Regional Airport Authority
San Francisco International Airport
San Mateo County Economic Development Association
Southwest Airlines
Sustainable Aviation Fuel Producer Group
United Airlines, Inc.
Universal Hydrogen Co.
UPS
Valley Industry and Commerce Association

Velocys, Inc.
World Energy

OPPOSITION: (Verified 8/26/22)

Biofuelwatch

ARGUMENTS IN SUPPORT: According to World Energy, "Passage of AB 1322 would represent the first time the Legislature has issued policy on incentivizing the reduction of GHG emissions and other climate forcing impacts from the aviation sector…

"AB 1322 also presents California with the opportunity to solidify its position as the global leader in SAF production and use. While some SAF is currently produced at our Paramount plant, new SAF production facilities have recently been developed and commercialized in the adjacent states of Oregon and Nevada. This is a missed opportunity for California. However, if proper incentives are deployed, as are expected to result from AB 1322, the nascent SAF industry in California will gain its footing and evolve into a healthy green industry creating new high-quality jobs for local communities.

"Finally, AB 1322 can enable our state to "build back better" from both the compounding impacts of COVID and wildfires while boosting aviation's progress towards cleaner flight."

ARGUMENTS IN OPPOSITION: According to Biofuelwatch, the bill has the following issues, among other: "Inequitable and Unjust: … This bill does nothing to address the inequities associated with the climate damage from aviation. What is more, the climate benefit claims of the bill are dubious, as there is substantial evidence that 'sustainable aviation fuel' can result in even more greenhouse gas emissions than just burning fossil fuel.

"A History of Failed Projects and Wasted Public Money: The promotion of making liquid aviation fuels from woody biomass, one of the signature bioenergy concepts promoted in this bill, has a long sordid history of broken promises and failed projects. As a prime example, one of the listed supporters of AB 1322, Red Rock Biofuels, has received hundreds of millions of dollars of public money to build a plant in Lakeview, Oregon, to make liquid aviation biofuels from woody biomass. However, that plant has never been finished, the company is traversing irregular financial circumstances, and the company has failed completely to fulfill claims it has made to agencies like the California Air Resources Board that the company

would already be bringing millions of gallons of fuel to market."

ASSEMBLY FLOOR: 49-22, 5/10/21
AYES: Aguiar-Curry, Arambula, Berman, Bloom, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper, Daly, Frazier, Friedman, Gabriel, Cristina Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Mayes, McCarty, Medina, Mullin, Nazarian, O'Donnell, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bauer-Kahan, Bennett, Bigelow, Boerner Horvath, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Irwin, Kiley, Lackey, Muratsuchi, Nguyen, Petrie-Norris, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Burke, Chen, Eduardo Garcia, Gray, Maienschein, Mathis, Patterson

Prepared by: Eric Walters / E.Q. / (916) 651-4108
8/26/22 15:36:06

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

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THIRD READING

Bill No: AB 1328
Author: Irwin (D)
Amended: 7/14/21 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 9-1, 7/12/21
AYES: Roth, Archuleta, Becker, Dodd, Eggman, Hurtado, Jones, Newman, Ochoa Bogh
NOES: Bates
NO VOTE RECORDED: Melendez, Leyva, Min, Pan

SENATE APPROPRIATIONS COMMITTEE: 6-1, 8/11/22
AYES: Portantino, Bradford, Jones, Laird, McGuire, Wieckowski
NOES: Bates

ASSEMBLY FLOOR: 71-0, 5/13/21 - See last page for vote

SUBJECT: Clinical laboratory technology and pharmacists

SOURCE: California Society of Health-System Pharmacists

DIGEST: This bill (1) authorizes a pharmacist to perform all clinical laboratory tests that are classified as waived under the federal Clinical Laboratory Improvement Amendments of 1988 (CLIA) that can lawfully be used within the pharmacist's practice and updates settings in which a pharmacists can perform waived tests; (2) authorizes a pharmacist to order and interpret tests for the purpose of promoting patient health, rather than just for monitoring and managing the efficacy of drug therapies as current law specifies; (3) authorizes the pharmacist-in-charge (PIC) of a pharmacy to be the laboratory director of a laboratory certified to perform all CLIA-waived tests; and (4) prohibits a licensed pharmacist from performing venipuncture unless the pharmacist is either a certified phlebotomist or oversees certified phlebotomists, as specified.

ANALYSIS:

Existing federal law:

1) Establishes CLIA under federal law, which regulates clinical laboratories that perform tests on human specimens and sets standards for facility administration, personnel qualifications and quality control. These standards apply to all settings, including commercial, hospital or physician office laboratories. (Code of Federal Regulations (CFR) Title 42 § 493)

2) Defines CLIA waived tests as simple laboratory examinations and procedures that are approved by the Food and Drug Administration (FDA) for home use, employ methodologies that are simple and accurate as to render the likelihood of erroneous results negligible or pose no reasonable risk of harm to the patient if the test is performed incorrectly. (CFR Title 42 § 493)

Existing state law:

1) Regulates and licenses the practice of pharmacy under the Pharmacy Law and establishes the California State Board of Pharmacy to administer and enforce the Pharmacy Law. (Business and Professions Code (BPC) §§ 4000-4427.8)

2) Authorizes the following, among other things, as part of the scope of practice of a licensed pharmacist:

   a) Performing procedures or functions as part of the care provided by a health care facility, a licensed home health agency, a licensed clinic in which there is a physician oversight, a provider who contracts with a licensed health care service plan with regard to the care or services provided to the enrollees of that health care service plan, or a physician. (BPC § 4052(a)(5))

   b) Providing consultation, training, and education to patients about drug therapy, disease management, and disease prevention. (BPC § 4052(a)(8))

   c) Ordering and interpreting tests for the purpose of monitoring and managing the efficacy and toxicity of drug therapies, to be done in coordination with the patient's primary care provider or diagnosing prescriber, including promptly transmitting written notification to the patient's diagnosing prescriber or entering the appropriate information in a patient record system shared with the prescriber, when available and as permitted by that prescriber. (BPC § 4052(a)(12))

3) Authorizes a pharmacist to perform the following procedures or functions in a licensed health care facility in accordance with policies, procedures, or protocols developed by health professionals, including physicians, pharmacists, and registered nurses, with the concurrence of the facility administrator:

   a) Ordering or performing routine drug therapy-related patient assessment procedures including temperature, pulse, and respiration. (BPC § 4052.1(a)(1))

   b) Ordering drug therapy-related laboratory tests. (BPC § 4052.1(a)(2))

   c) Administering drugs and biologicals by injection pursuant to a prescriber's order. (BPC § 4052.1(a)(3))

   d) Initiating or adjusting the drug regimen of a patient pursuant to an order or authorization made by the patient's prescriber and in accordance with the policies, procedures, or protocols of the licensed health care facility. (BPC § 4052.1(a)(4))

   e) Receiving appropriate training as required by the policies and procedures of the licensed health care facility. (BPC § 4052.1(b))

4) Authorizes a pharmacist to perform the following procedures or functions as part of the care provided by a health care facility, a licensed home health agency, licensed correctional clinic, a licensed clinic in which there is physician oversight, a provider who contracts with a licensed health care service plan with regard to the care or services provided to the enrollees of that health care service plan, or a physician, in accordance with the policies, procedures, or protocols of that facility, home health agency, licensed correctional clinic, licensed clinic, health care service plan, or physician:

   a) Ordering or performing routine drug therapy-related patient assessment procedures including temperature, pulse, and respiration. (BPC § 4052.2(a)(1))

   b) Ordering drug therapy-related laboratory tests. (BPC § 4052.2(a)(2))

   c) Administering drugs and biologicals by injection pursuant to a prescriber's order. (BPC § 4052.2(a)(1))

5) Provides for the regulation, registration, and licensure of clinical laboratory technology, including laboratory facilities and clinical laboratory personnel, by the California Department of Public Health (CDPH). (BPC § 1200-1327)

6) Defines "CLIA" as the federal Clinical Laboratory Improvement Amendments of 1988 (United States Code, title 42, § 263a; Public Law 100-578) and the regulations adopted by the federal Health Care Financing Administration (HFCA) that are effective on January 1, 1994, or later when adopted by the CDPH after being deemed equivalent to or more stringent than California laws or regulations, as specified. (BPC § 1202.5(a); BPC § 1208(b))

7) Defines "clinical laboratory test or examination" as the detection, identification, measurement, evaluation, correlation, monitoring, and reporting of any particular analyte, entity, or substance within a biological specimen for the purpose of obtaining scientific data which may be used as an aid to ascertain the presence, progress, and source of a disease or physiological condition in a human being, or used as an aid in the prevention, prognosis, monitoring, or treatment of a physiological or pathological condition in a human being, or for the performance of nondiagnostic tests for assessing the health of an individual. (BPC § 1206(a)(5))

8) Defines "clinical laboratory" as 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. (BPC § 1206(a)(8))

9) Requires every clinical laboratory to operate under the overall operation and administration of a laboratory director. (BPC § 1206.5(a), 1206.5(b), 1206.5(c))

10) Establishes the definition, duties, and qualifications of a "laboratory director" for purposes of clinical laboratories and testing. (BPC § 1209)

11) Defines "laboratory director" as any person who is any of the following:

    a) A duly licensed physician and surgeon. (BPC § 1209(a)(1))

    b) Only for purposes of a clinical laboratory test or examination classified as waived:

        i) A licensed clinical laboratory scientist. (BPC § 1209(a)(2)(A))

        ii) A licensed limited clinical laboratory scientist. (BPC § 1209(a)(2)(B))\

        iii) A licensed naturopathic doctor. (BPC § 1209(a)(2)(C))

iv) A licensed optometrist serving as the director of a laboratory that only performs clinical laboratory test classified as waived under CLIA that include the ordering of smears, cultures, sensitivities, complete blood count, mycobacterial culture, acid fast stain, urinalysis, tear fluid analysis, and X-rays necessary for the diagnosis of conditions or diseases of the eye or adnexa. (BPC § 1209(a)(2)(D))

c) Otherwise licensed to direct a clinical laboratory under the chapter on clinical laboratory technology. (BPC § 1209(a)(3))

d) The pharmacist-in-charge of a pharmacy that applies for a registration with the CDPH as a community pharmacy that only performs blood glucose, hemoglobin A1c, or cholesterol tests that are classified as waived under CLIA and are approved by the federal Food and Drug Administration for sale to the public without a prescription in the form of an over-the-counter test kit. (BPC §§ 1206.6, 1265(k))

12) Prohibits the performance of a clinical laboratory test or examination classified as waived under CLIA unless the clinical laboratory test or examination is performed under the overall operation and administration of the laboratory director, including, but not limited to, documentation by the laboratory director of the adequacy of the qualifications and competency of the personnel, and the test is performed by specified persons, including a pharmacist if ordering drug therapy-related laboratory tests or if performing skin puncture in the course of performing routine patient assessment procedures as specified under the Pharmacy Law. (BPC § 1206.5)

13) Excludes from the waived testing requirements a pharmacist at a community pharmacy who, upon customer request, performs only blood glucose, hemoglobin A1c, or cholesterol tests that are classified as waived under CLIA and are approved by the federal Food and Drug Administration for sale to the public without a prescription in the form of an over-the-counter test kit, provided that the pharmacy has a federal certificate of waiver, the laboratory director is the pharmacist-in-charge, the pharmacy registers with the CDPH, and the pharmacist performs tests in the course of performing routine patient assessment procedures that a patient could, with or without a prescription, perform on their own or clinical laboratory tests that are classified as waived under CLIA. (BPC § 1206.6)

This bill:

1) Authorizes a pharmacist to perform all clinical laboratory tests that are classified as waived under CLIA that can lawfully be used within the pharmacist's practice and updates settings in which a pharmacists can perform waived tests.

2) Authorizes a pharmacist to order and interpret tests for the purpose of promoting patient health, rather than just for monitoring and managing the efficacy of drug therapies as current law specifies.

3) Authorizes the pharmacist-in-charge (PIC) of a pharmacy to be the laboratory director of a laboratory certified to perform all CLIA-waived tests.

4) Prohibits a licensed pharmacist from performing venipuncture unless the pharmacist is either a certified phlebotomist or oversees certified phlebotomists, as specified.

Background

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 or as part of a nondiagnostic health assessment program under the overall direction of a laboratory director, unless otherwise limited. In applying for a CLIA certificate of waiver, the laboratory director must list the types of analytes to be tested, the tests performed, and the test manufacturer.

Current law provides for the licensure, registration, and regulation of clinical laboratories and various clinical laboratory personnel by the State Department of Public Health. Current law also requires a CLIA-waived test to be performed under the overall operation and administration of a laboratory director, which is defined to include physicians and surgeons, or anyone licensed to direct a clinical laboratory, as specified. For the purposes of waived tests or examinations, the following professionals also can be laboratory directors: clinical laboratory scientist, limited clinical laboratory scientist, naturopathic doctor, or optometrist serving as the director of a laboratory that only performs certain tests defined in the Optometry Practice Act.

Depending on their setting, pharmacists’ scope of practice can diminish or expand. For example, pharmacists in any setting may administer the following tests and medications in any setting: toxicology, drug-therapy, and disease management and

protection; over the counter tests for blood glucose and hemoglobin levels; hormonal contraceptives; prescription medications that do not require a prescription for travel purposes; nicotine replacement products; HIV preexposure prophylaxis and postexposure prophylaxis; routine and the COVID-19 vaccination; skin puncture if the test is CLIA-waived and a person could perform the test at home themselves; certain dialysis drugs; and opioid antigen injections.

However, other tests, medications, and procedures require pharmacists to practice: in a health care facility; in a licensed home health agency; in a licensed correctional clinic; in a licensed clinic in which there is physician oversight; with a provider who contracts with a licensed health care service plan with regard to the care or services provided to the enrollees of that health care service plan; or with a physician, in accordance with the policies, procedures, or protocols of that facility, agency, clinic, service plan, or physician. Settings generally offer varying degrees of supervision by medical professionals depending on the setting. In these settings, pharmacists may: complete drug-therapy patient assessments (such as taking temperature, pulse, and respiration); order drug-therapy related laboratory tests; administer drugs and biologics by injection; initiate and adjust drug regime by patient provider.

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

According to the Senate Appropriations Committee, the Board of Pharmacy anticipates minor and absorbable costs associated with the expanded ability for pharmacists to perform CLIA-waived tests.

SUPPORT: (Verified 8/17/22)

California Society of Health-System Pharmacists (source)
California Association of Long Term Care Medicine
California Council for The Advancement of Pharmacy
California Retailers Association
Invitae
National Association of Chain Drug Stores
USC School of Pharmacy

OPPOSITION: (Verified 8/17/22)

American College of Cardiology, California Chapter
American College of Obstetricians and Gynecologists District IX
California Association for Medical Laboratory Technology
California Board of Pharmacy

California Medical Association
California Rheumatology Alliance
California Society of Pathologists
California Society of Plastic Surgeons

ARGUMENTS IN SUPPORT: Generally, supporters argue that pharmacies can serve as an additional point of contact for access to care within the healthcare delivery system for the public, especially given that the healthcare delivery system has been overtaxed by the pandemic and a rapidly aging population.

ARGUMENTS IN OPPOSITION: Generally, opposition argues that this bill, that grants broad authority order, administer, and interpret any CLIA-waived or FDA approved tests, with few exceptions, could put patient safety at risk.

The Board of Pharmacy notes that "last year several measures were enacted that updated Pharmacy Law, including important provisions to expand authority for pharmacists to perform patient care services beyond those offered in Assembly Bill 1328. Regrettably should AB 1328 be enacted; those important provisions will be eliminated negatively impacting patient care. The Board respectfully requests that AB 1328 be amended to incorporate the changes to Pharmacy Law enacted January 1, 2022, to preserve the changes sponsored by the Board which were subsequently approved by the Legislature and signed by the Governor, including for example authority for pharmacists to provide medication assistant treatment under a protocol and expansion of collaborative practice agreements provisions."

ASSEMBLY FLOOR: 71-0, 5/13/21
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Chau, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Fong, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Wicks, Wood, Rendon
NO VOTE RECORDED: Arambula, Bigelow, Cervantes, Chen, Flora, Gallagher, Akilah Weber

Prepared by: Dana Shaker / B., P. & E.D. /
8/17/22 16:15:40

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

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THIRD READING

Bill No: AB 1348
Author: McCarty (D)
Amended: 8/22/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 9-0, 6/1/22
AYES: Pan, Melendez, Gonzalez, Grove, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Eggman, Hurtado

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 63-0, 1/20/22 - See last page for vote

SUBJECT: Youth athletics: chronic traumatic encephalopathy

SOURCE: Author

DIGEST: This bill requires the California Surgeon General to convene a Commission on Chronic Traumatic Encephalopathy (CTE) and Youth Football to investigate issues related to the risks of brain injury associated with participation in youth football, and issue recommendations on the minimum age for tackle football and best practices for minimizing the risk of concussion and CTE.

Senate Floor Amendments of 8/22/22 extend the deadline for publishing such recommendations by one year to July 1, 2025, extend the repeal date to January 1, 2026, and allow the Commission to request information on youth sports injuries from youth tackle football leagues.

ANALYSIS:

Existing law:

1) Requires a youth sports organization that conducts a tackle football program to comply with the following requirements:

a) Prohibit a tackle football team from conducting more than two full-contact practices per week during the preseason and regular season;

b) Prohibit a tackle football team from holding a full-contact practice during the off-season; and,

c) Limit the full-contact portion of a practice to 30 minutes in any single day. [HSC §124241]

2) Requires a school district, charter school, or private school to comply with the following requirements if it offers a football program:

a) Prohibit a high school or middle school football team from conducting more than two full-contact practices per week during the preseason and regular season;

b) Prohibit a high school or middle school football team from holding a full-contact practice during the off-season; and

c) Limit the full-contact portion of a practice to 90 minutes in any single day. [EDC §35179.5]

3) Requires a youth sports organization, as defined, to comply with certain requirements related to athletes suspected of sustaining a concussion or head injury, including removal from the athletic activity and a prohibition on returning until he or she is evaluated by a licensed health care provider. Requires youth sports organizations to give a concussion and head injury information sheet to each athlete. [HSC §124235]

4) Requires a school district, charter school, or private school that offers an athletic program to comply with concussion and head injury requirements similar to those applying to youth sports organizations described in 3) above. [EDC §49475]

5) Requires each youth tackle football coach to annually receive a tackling and blocking certification from a nationally recognized program that emphasizes techniques designed to minimize the risk during contact by removing the involvement of youth tackle football participant's head from all tackling and blocking techniques. [HSC §124241]

6) Requires a youth sports organization to offer concussion and head injury education, or related educational materials, to each coach and administrator of the youth sports organization, and requires each coach and administrator to

successfully complete this education at least once, either online or in person, before supervising an athlete. [HSC §124235]

7) Requires each football helmet to be reconditioned and recertified every other year, unless stated otherwise by the manufacturer. Restricts the entities who can perform the reconditioning and recertification to only those entities licensed by the National Operating Committee on Standards for Athletic Equipment. Requires every reconditioned and recertified helmet to display a clearly recognizable mark or notice in the helmet indicating the month and year of the last certification. Requires safety equipment to be inspected before every full-contact practice or game to ensure that all youth tackle football participants are properly equipped. [HSC §124241]

8) Requires 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]

9) Requires at least one independent non-rostered individual, appointed by the youth sports organization, to be present at all practice locations. Requires the individual to hold current and active certification in first aid, CPR, AED, and concussion protocols. Requires the 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 concussion or other head injury. [HSC §124241]

10) Requires every youth tackle football participant removed from a game or practice to comply with provisions of law requiring a parent or guardian to be notified, and that require written clearance from a licensed health care provider to return to athletic activity. Requires the injury to be reported to the youth tackle football league. [HSC §124241]

11) Requires each youth tackle football participant to complete a minimum of ten hours of noncontact practice at the beginning of each season for the purpose of conditioning, acclimating to safety equipment, and progressing to the introduction of full-contact practice. Prohibits youth tackle participants from wearing any pads, and to only wear helmets if required to do so by the coaches, during this noncontact practice. [HSC §124241]

12) Requires a youth sports organization to annually provide a declaration to its youth tackle football league stating that it is in compliance with the California Youth Football Act provisions described above, and to either post the declaration on its website or provide the declaration to all youth tackle football participants within its youth sports organization. [HSC §124241]

13) Requires a youth tackle football league to establish youth tackle football participant divisions that are organized by relative age or weight or by both age and weight. [HSC §124241]

14) Requires a youth tackle football league to retain information, from which the names of individual are not identified, for the tracking of youth sports injuries. Requires this information to include the type of injury, the medical treatment received by the youth tackle football participant, and return to play protocols followed by the participant pursuant to this bill. [HSC §124241]

This bill:

1) Requires the California Surgeon General to convene a Commission on CTE and Youth Football to investigate issues related to the risks of brain injury associated with participation in youth football, and to provide recommendations to the Governor and Legislature on strategies to reduce this risk, including the minimum appropriate age for participation in youth tackle football.

2) Requires the Commission to be led by the California Surgeon General and consist of members selected by the Surgeon General, including, but not be limited to, members with expertise in public health, neuroscience, neurology, or other relevant fields.

3) Requires the Commission to review, investigate, and analyze issues relating to the risk of brain injury associated with participation in youth football, including:

    a) The risk of concussion, CTE, or other brain injury from participation in youth tackle football;

    b) The short and long-term health consequences of concussion, CTE, or other brain injury in youth; and,

    c) How the risks and health consequences described above vary with the age of the youth tackle football participant.

4) Allows the Commission to request youth sports injury information that youth tackle football leagues are required to retain by existing state law. Permits youth tackle football leagues to share this information voluntarily.

5) Requires the California Surgeon General to publish a report on their website with the findings of the Commission on or before July 1, 2024, including:

   a) The appropriate minimum age for participation in youth tackle football; and,

   b) Best practices for minimizing the risk of concussion, CTE, or other brain injury in youth football, including youth tackle football.

6) Sunsets on January 1, 2026.

7) Makes legislative findings that CTE is a degenerative brain disease that has been suspected to be linked to participation in contact sports such as boxing and football.

Comments

1) *Author's statement.* According to the author, there is endless documentation on the complications, like CTE, that can result from head injuries. This is particularly alarming for children whose brains are still developing. This bill aims to reduce youth exposure to brain injury by tasking the California Surgeon General to study ways in which youth football can be practiced safely and establish a minimum age to play tackle football. Children's brains are especially vulnerable and we must address this important public health issue.

2) *Research on CTE and youth football.* CTE is a neurodegenerative disease associated with exposure to contact and collision sports (CCS), including football, boxing, soccer, rugby, and ice hockey. Like most neurodegenerative diseases, CTE only can be definitively diagnosed by postmortem neuropathologic examination, thus it is difficult to do definitive studies on the relationship between head injuries and sports given limited sample sizes. In short, researchers must be able to examine the brain of a deceased athlete and know the sports history or injury history of that individual. Also, because only brains of the deceased can be adequately analyzed, it is hard to determine the impact of recent changes to make the sport safer.

   Of the studies that do exist, there is cause for concern. One study published in the Annals of Neurology in October 2019 found that there was a strong dose–response relationship for the number of years of football played with CTE

neuropathology, doubling odds of disease every 2.6 years and doubling odds of severe disease among those with CTE every 5.3 years.

However, a recent narrative review of studies published in September 2021 in Frontiers in Neurology found that although the literature on whether younger age of first exposure to tackle football is associated with later in life cognitive, neurobehavioral, or mental health problems in former National Football League (NFL) players is mixed, the largest study of retired NFL players suggested there was not a significant association between earlier age of first exposure to organized tackle football and worse subjectively experienced cognitive functioning, depression, or anxiety. Furthermore, no published studies of current athletes show a significant association between playing tackle football (or other CCS) before the age of 12 and cognitive, neurobehavioral, or mental health problems. All studies were judged to be at high overall risk of bias, indicating that more methodologically rigorous research is needed to understand whether there is an association between age of first exposure to CCS and later in life brain health. The accumulated research to date suggests that earlier age of first exposure to CCS is not associated with worse cognitive functioning or mental health in current high school athletes, current collegiate athletes, or middle-aged men who played high school football.

3) *AAP statement.* In November of 2015, the American Academy of Pediatrics (AAP) published a policy statement, Tackling in Youth Football. According to the AAP, there are approximately 250,000 youth football players age five to 15 years 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. 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%. Tackling is the most common player activity at the time of injury and 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 removing tackling from football would also lead to a fundamental change in the way the game is played.

A more recent study published by AAP in November 2019 found that while football had the highest overall incidence of concussions of the sports reviewed, nine other sports had a higher incidence of recurrent concussions, including baseball, wrestling, cheerleading, girls and boys lacrosse, basketball and soccer. The study noted that rates of football practice-related concussions and recurrent concussions across all sports have decreased.

4) *California Surgeon General.* The position of California Surgeon General was created by Governor Newsom by executive order shortly after he took office in 2019 and codified by SB 78 (Committee on Budget and Fiscal Review, Chapter 38, Statutes of 2019). The law states the office is responsible for the following:

   a) Raising public awareness on and coordinating policies governing scientific screening and treatment for toxic stress and adverse childhood events (ACEs);

   b) Advising the Governor, the Secretary of the California Health and Human Services Agency, and policymakers on a comprehensive approach to address health issues and challenges, including toxic stress and ACEs, as effectively and early as possible; and,

   c) Marshalling the insights and energy of medical professionals, scientists, and other academic experts, public health experts, public servants and everyday Californians to solve our most pressing health challenges, including toxic stress and ACEs.

   The position's responsibilities include advising the Governor, serving as a leading spokesperson on matters of public health, and driving solutions to pressing public health challenges. California's first Surgeon General published a report on ACEs, toxic stress and health in 2020. The office currently has an Acting Surgeon General who is continuing these priorities. Although the Legislature has not yet tasked the Surgeon General with making policy recommendations on a particular health matter, the Surgeon General's previous report on ACEs and toxic stress involved a review of the medical literature on the topic and policy recommendations.

Related/Prior Legislation

AB 1 (Cooper, Chapter 158, Statutes of 2019) established a comprehensive safety scheme for youth tackle football and required a youth tackle football league to establish youth tackle football participant divisions that are organized by relative

age or weight or by both age and weight, and retain information for the tracking of youth sports injuries.

AB 2108 (McCarty, 2018) would have banned children under 12 years of age from playing tackle football. *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.

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

According to the Senate Appropriations Committee, the Office of the Surgeon General estimates the one-time fiscal impact of this bill would be potentially in the high hundreds of thousands or low millions of dollars (General Fund).

SUPPORT: (Verified 8/22/22)

Concussion Legacy Foundation
Evan R. Hansen Foundation
I Got You Foundation
Life's Big Win
MAC Parkman Foundation
One Last Goal
Patrick Risha CTE Awareness Foundation

OPPOSITION: (Verified 8/22/22)

None received

ARGUMENTS IN SUPPORT: The Concussion Legacy Foundation writes in support that according to the largest study on confirmed CTE cases in football players, of the link between football and developing CTE may be as strong as the link between smoking and lung cancer. The organization cites the same Annals of Neurology study cited above, stating each year of playing tackle football increased the odds of developing CTE by 30%. A player's odds to develop CTE doubled every 2.6 years. That means a high school player who starts at age five might have ten times the risk of developing CTE than one who starts at age 14. Football should follow the lead of other major team sports, which have all stopped exposing children to the repetitive head impacts which can cause CTE. Despite there only being fewer than 50 CTE cases diagnosed in soccer and ice hockey worldwide,

heading is now banned in soccer in the U.S. until age 11 (and age 12 in the UK), and checking is banned in ice hockey until age 13. Football has a perfectly acceptable youth version that teaches children how to play and get exercise – flag football – yet about a million children each year still play tackle.

Even though hundreds of football players have now been diagnosed with CTE, including over 80% of all players examined, proponents of youth tackle football have cited flawed studies to claim flag football is as dangerous as tackle football. In response, the U.S. Centers for Disease Control and Prevention funded a study using helmet and head sensors to compare the brain safety of tackle versus flag, and in 2021 they published that the average tackle player suffers 378 head impacts per season, while flag players are exposed to only 8 impacts per season.

ASSEMBLY FLOOR: 63-0, 1/20/22
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Cervantes, Cooley, Cunningham, Daly, Davies, Flora, Fong, Gabriel, Cristina Garcia, Gipson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Arambula, Carrillo, Chen, Choi, Cooper, Megan Dahle, Friedman, Gallagher, Eduardo Garcia, Gray, Grayson, Mayes, Voepel

Prepared by: Jen Flory / HEALTH / (916) 651-4111
8/23/22 13:23:14

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

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THIRD READING

Bill No: AB 1355
Author: Levine (D)
Amended: 8/22/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 9-0, 6/1/22
AYES: Pan, Melendez, Gonzalez, Grove, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Eggman, Hurtado

SENATE JUDICIARY COMMITTEE: 11-0, 6/14/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 68-0, 1/27/22 - See last page for vote

SUBJECT: Public social services: hearings

SOURCE: Western Center on Law & Poverty

DIGEST: This bill permits the director of the Department of Health Care Services or the Department of Social Services, after reviewing the proposed hearing decision of an administrative law judge, to decide the matter themselves only after reviewing the transcript or recording of a hearing, or conduct another hearing that allows parties to present additional evidence once a hearing has been conducted and an ALJ has written a proposed decision. If the director writes an alternated decision, this bill requires the alternated decision to contain a statement of the facts and evidence, including references to the applicable sections of law and regulations, and the analysis that supports the director's decision.

Senate Floor Amendments of 8/22/22 remove provisions related to a new IMR process for Medi-Cal beneficiaries and instead keep just the revisions to the current state fair hearing process.

ANALYSIS:

Existing law:

1) Allows an individual to request a state fair hearing if the individual is dissatisfied with public social services they have received, dissatisfied with any action of the county relating to their application, or refused the opportunity to submit an application and is dissatisfied. Requires state fair hearings be conducted by an administrative law judge (ALJ). [WIC §10952]

2) Allows DHCS to contract with DSS for the provision of state hearings for programs administered by DHCS. [WIC § 10950]

3) Allows the department director to adopt the proposed decision of an administrative law judge, decide the matter them self, or conduct another hearing once one has been conducted and an ALJ has written a proposed decision. [WIC §10959]

This bill allows the department Director to adopt the proposed decision of an administrative law judge, decide the matter themselves after reviewing the transcript or recording of a hearing, or conduct another hearing that allows parties to present additional evidence once a hearing has been conducted and an ALJ has written a proposed decision. If the Director writes an alternated decision, requires the alternated decision to contain a statement of the facts and evidence, including references to the applicable sections of law and regulations, and the analysis that supports the Director's decision.

Comments

Author's statement. According to the author, this bill will improve the public benefits appeals process by standardizing the process that state departments must follow when alternating judges' decisions in fair hearings. Currently, the Department of Health Care Services and the Department of Social Services directors may overturn a judge's decision during a state fair hearing. While directors are already required to review evidence and provide reasoned decisions,

there are no consistent procedures they must follow when alternating a judge's decision.

This bill will require department directors, when alternating decisions to review hearing files, provide detailed reasoning to support their alternations, and reopen the record if they take additional evidence ensuring that people on public benefits, like CalWORKs, CalFresh, and Medi-Cal, get the objective, impartial review that they were seeking.

State fair hearings. Public social services applicants and beneficiaries have the right to a fair hearing when an adverse action is taken against them such as a Medi-Cal denial or termination, or a denial or reduction in services or benefits. DHCS has delegated the provision of hearings to the Department of Social Services' State Hearings Division, who also conducts other state benefits hearings such as Covered California and CalWORKs hearings. Fair hearings are conducted by an ALJ and function like a mini court process. The beneficiary has the right to be represented at the hearing if they are able to find representation, but they must attend the hearing. Otherwise, the beneficiary is responsible for submitting a hearing brief and supplemental evidence.

This bill makes technical procedural changes to the fair hearing process. It codifies standards the DHCS or DSS director must adhere to if not adopting the ALJs proposed decision. If the director intends to alternate the decision, the director must either review the hearing transcript or recording, or conduct a new hearing so that both parties may present new evidence.

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

According to the Senate Appropriations Committee, DHCS states this bill would create significant but indeterminate costs. The fiscal impact includes:

- One-time cost of $300,000 for a system change to modify the current state hearing notification process. It is not clear if this system change is needed for the current amendments.

- DHCS staffing resources for total costs of $3,369,000 the first year, $2,358,000 the following year, and $1,608,000 every year thereafter (50 percent federal funds and 50 percent General Fund). These staffing costs would likely be dramatically reduced with the current amendments.

SUPPORT: (Verified 8/22/22)

Western Center on Law & Poverty (source)
Association of Regional Center Agencies
Autism Speaks
California Chronic Care Coalition
California Medical Association
California Pan-Ethnic Health Network
Center for Autism and Related Disorders
Children Now
Children's Specialty Care Coalition
Community Legal Aid SoCal
Disability Rights California
Disability Rights Education and Defense Fund
Health Access California
Justice in Aging
National Health Law Program
Neighborhood Legal Services of Los Angeles County
PRC

OPPOSITION: (Verified 8/22/22)

None received

ARGUMENTS IN SUPPORT: This bill's sponsor, Western Center on Law & Poverty, writes that under current law, DHCS and DSS may overturn a judge's decision made during a hearing. Although directors are already required to review evidence and provide reasoned decisions, there are no consistent procedures that directors must follow when alternating a judge's decision. This bill would require directors, when alternating decisions, to review hearing files, provide detailed reasoning to support their alternations, and reopen the record if they take additional evidence. Fair hearings are a considerable expenditure of time and resources for all involved. To change the outcome without an in-depth review of what was considered at the hearing undermines the process and denies beneficiaries the objective, impartial review they were seeking. Although alternated fair hearing decisions are rare, this bill is necessary to ensure any reversal of a judge's decision follows standard procedures and is based on thorough examination.

ASSEMBLY FLOOR: 68-0, 1/27/22

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

Prepared by: Jen Flory / HEALTH / (916) 651-4111
8/23/22 14:49:49

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

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THIRD READING

Bill No: AB 1369
Author: Bennett (D)
Amended: 6/8/22 in Senate
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 9-5, 6/14/22
AYES: Dodd, Allen, Becker, Bradford, Hertzberg, Hueso, Kamlager, Portantino, Roth
NOES: Nielsen, Borgeas, Jones, Melendez, Wilk
NO VOTE RECORDED: Glazer

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-2, 6/15/22
AYES: Allen, Gonzalez, Skinner, Stern, Wieckowski
NOES: Bates, Dahle

SENATE APPROPRIATIONS COMMITTEE: 4-2, 8/11/22
AYES: Portantino, Bradford, Laird, Wieckowski
NOES: Bates, Jones
NO VOTE RECORDED: McGuire

ASSEMBLY FLOOR: 57-17, 1/31/22 - See last page for vote

SUBJECT: Buy Clean California Act: eligible materials: product-specific global warming potential emissions

SOURCE: Author

DIGEST: This bill adds specified building materials to the Buy Clean California Act (BCCA), and requires the Department of General Services (DGS) to regularly review the maximum acceptable global warming potential (GWP) for each category of eligible materials, as specified.

ANALYSIS:

Existing law:

1) Requires, pursuant to the BCCA, DGS to establish and publish a maximum acceptable GWP for each category of eligible materials, as specified.

2) Requires DGS, by January 1, 2025, and every three years thereafter, to review the maximum acceptable GWP for each category of eligible materials and authorizes DGS to adjust that number downward for any eligible material to reflect industry improvements under specified circumstances.

3) Defines "eligible materials" to mean carbon steel rebar, flat glass, mineral wool board insulation, and structural steel.

This bill:

1) Expands the definition of "eligible materials" to include gypsum board, insulation, carpet and carpet tiles, and ceiling tiles – and removes "mineral wool board insulation."

2) Clarifies the requirement for DGS, in consultation with ARB, to establish and publish a maximum global warming potential for pre-existing eligible materials, and requires DGS, by January 1, 2024, and in consultation with ARB, to establish and publish maximum GWP for newly added eligible materials, as specified.

3) Extends the requirement by two years, from January 1, 2025, to January 1, 2027, and every three years thereafter, for DGS to review the maximum acceptable GWP for each category of eligible materials and make adjustments, as specified.

4) Authorizes DGS to establish and publish in the State Contracting Manual (SCM), or make available online, a maximum acceptable GWP for any major structural, high-impact architectural, civil, or high-impact materials, in addition to the eligible materials described above, as specified.

Background

Purpose of the Bill. According to the author's office, "climate change is the most serious threat that we face and the window to act is closing. As we saw during

COP 26, we must act now before we face irreparable harm. That means lowering our direct emissions, but also working towards reducing our total emissions, including embodied carbon. California has a unique opportunity to set a standard for cleaner buildings. AB 1369 strengthens our existing Buy Clean program by adding new materials that must be evaluated and requiring DGS to establish a maximum allowable threshold for the GWP of those materials. Further, by requiring DGS to publish those GWP thresholds, AB 1369 allows the state to make more informed decisions when funding projects, and spurs industry to reduce the climate impact."

State Contracting Manual. The SCM is compiled by DGS and is intended to act as a resource to persons and companies involved in California's state contracting process. The SCM provides policies, procedures, and guidelines to promote sound business decisions and practices in securing services for the State. The SCM does not eliminate or override statutory requirements, or requirements implemented by way of superseding Executive Orders and Management Memos. The SCM is available on DGS's internet Web site.

Buy Clean California Act. The BCCA, AB 262 (Bonta, Chapter 816, Statutes of 2017), requires DGS, in consultation with ARB, to establish and publish the maximum acceptable GWP limit for four eligible materials targeting carbon emissions associated with the production of: structural steel (hot-rolled sections, hollow structural sections, and plate); concrete reinforcing steel, flat glass, and mineral wool board insulation. When used in public works projects, these eligible materials must have a GWP that does not exceed the limit set by DGS and available made available online on January 1 of this year. Beginning July 1, 2022, awarding authorities must determine GWP limit compliance of eligible materials using Environmental Products Declarations (EPDs). Methodology to establish the GWP limits can also be found online on DGS's reports website.

An EPD is a comprehensive, internationally accepted report that documents the ways in which a product, throughout its lifecycle, affects the environment. It describes the lifecycle story of a product in a single, written report, focusing on information about a product's environmental impact, such as global warming, ozone depletion, water pollution, ozone creation, and greenhouse gas (GHG) emissions. Having an EPD for a particular material does not imply that the material is environmentally superior to alternatives, but is simply a transparent description and record of the life-cycle environmental impact of that particular product.

Global Warming Potentials. Greenhouse gases warm the Earth by absorbing and slowing the rate at which energy escapes to space. Different GHGs can have different effects on the warming of the Earth. GWP is a measure of how much heat a GHG traps in the Earth's atmosphere. It was developed to allow comparisons of the global warming impacts of different gases. The larger the GWP, the more that the given gas warms the Earth compared to carbon dioxide (CO2).

This bill adds gypsum board, insulation (replacing mineral wool board insulation), carpet and carpet tiles, and ceiling tiles to the existing list of eligible materials that must be evaluated for their GWP. Additionally, this bill requires DGS to regularly review the maximum acceptable GWP for eligible materials and authorizes DGS to adjust that number downward to reflect industry improvements, as specified. Finally, this bill authorizes DGS to establish and publish in the SCM a maximum acceptable GWP for any major structural, high-impact architectural, civil, or high-impact materials in addition to the existing eligible materials.

Related/Prior Legislation

SB 1004 (Cortese, 2022) requires state agencies to grant a five percent bid preference to contractors that are party to an apprenticeship agreement with an approved apprenticeship program for a public works contract worth $250,000 or more, as specified. (Never heard in Senate Governmental Organization)

SB 1422 (Hertzberg, 2022) authorizes DGS to use existing leveraged procurement tools for contracts for purchase and installation of carpet, resilient flooring, synthetic turf, or lighting fixtures, and allows state and local agencies to contract for these projects without further competitive bidding if they meet specified labor standards and other conditions, as specified. (Pending in the Assembly Appropriations Committee)

AB 262 (Bonta, Chapter 816, Statutes of 2017), the BCCA, required DGS to establish standards used in the bid process related to GHG emissions when certain eligible materials are used in state public works projects.

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

According to the Senate Appropriations Committee:

- DGS estimates total ongoing costs of $866,000 for three additional staff for workload associated with compiling data, establishing GWP limits, preparing

legislative reports, assisting departments in implementing the limits, and recalculating the limits every three years (General Fund).

- Unknown increase in the cost of construction projects in the state. DGS notes this bill will result in some material manufacturers from being excluded from future state public works projects for exceeding the industry average emissions level, which will likely result in higher prices for construction materials, especially in the current supply chain environment which has seen costs for construction materials far exceed typical inflationary amounts.

- The ARB anticipates any fiscal impact to consult with the DGS to be minor and absorbable.

SUPPORT: (Verified 8/11/22)

350 Sacramento
350 Silicon Valley
American Institute of Steel Construction
Aquafil Carpet Recycling
California Environmental Voters
Californians Against Waste
Interface Americas, Inc.
International Interior Design Association – Northern California Chapter
International Interior Design Association – Southern California Chapter
National Stewardship Action Council
San Diego Green Building Council
Sierra Club California
U.S. Green building Council – Los Angeles

OPPOSITION: (Verified 8/11/22)

American Chemistry Council
EPS Industry Alliance
Extruded Polystyrene Foam Association
Insulation Contractors Association of America
National Insulation Association
North American Insulation Manufacturers Association
Polyisocyanurate Insulation Manufacturers Association
Spray Polyurethane Foam Alliance
Structural Insulated Panel Association

ARGUMENTS IN SUPPORT: In support of the bill, the Sierra Club California writes, "California should be spending its public infrastructure dollars in a manner that is consistent with our state's values and climate goals. In 2018, the Buy Clean California Act became law. This first of its kind law required DGS to establish a maximum GWP for a limited list of common construction materials. AB 1369 further expands the Buy Clean California act in two important ways—adding a small set of interiors products where there is high potential of carbon reductions and authorizes DGS to add eligible materials as data becomes available in more product/materials categories."

ARGUMENTS IN OPPOSITION: In opposition to the bill, the American Chemical Council writes that, "[d]espite its relatively small percentage in overall building embodied carbon impact, insulation does however have a significant contribution to operational energy and GHG savings. The role of increased energy efficiency in meeting climate change goals and reducing GHGs is well documented. Due to the significant savings attributed to insulation products and only a minor contribution to a building's embodied carbon profile, we respectfully request that insulation materials, including mineral wool board insulation be excluded from the eligible materials list. A focus that exclusively looks only at embodied carbon could lead to improper product selection, limit the availability of certain insulation materials for use in state projects, and negatively impact the operational carbon use of the building. Insulation materials provide important benefits beyond thermal protection including air sealing, vapor management, moisture performance, structural performance and durability, which are beneficial to a building's overall performance."

ASSEMBLY FLOOR: 57-17, 1/31/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, 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, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Chen, Cunningham, Megan Dahle, Davies, Flora, Fong, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron

NO VOTE RECORDED: Choi, Gallagher

Prepared by: Brian Duke / G.O. / (916) 651-1530
8/13/22 10:18:03

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

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THIRD READING

Bill No: AB 1389
Author: Reyes (D), Friedman (D) and Luz Rivas (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 11-1, 7/5/21
AYES: Hueso, Becker, Bradford, Dodd, Eggman, Gonzalez, Hertzberg, McGuire, Min, Rubio, Stern
NOES: Borgeas
NO VOTE RECORDED: Dahle, Grove

SENATE TRANSPORTATION COMMITTEE: 13-2, 7/13/21
AYES: Gonzalez, Allen, Becker, Cortese, Dodd, McGuire, Min, Newman, Rubio, Skinner, Umberg, Wieckowski, Wilk
NOES: Bates, Dahle
NO VOTE RECORDED: Archuleta, Melendez

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/26/21
AYES: Portantino, Bradford, Kamlager, Laird, McGuire
NOES: Bates, Jones

ASSEMBLY FLOOR: 58-12, 5/27/21 - See last page for vote

SUBJECT: Clean Transportation Program: project funding preferences

SOURCE: CALSTART

DIGEST: This bill expands the types of projects for which the California Energy Commission (CEC) must prioritize funding from the Clean Transportation Program (CTP) to include projects that provide specified air quality benefits.

Senate Floor Amendments of 8/25/22 limit this bill to provisions that require the CEC to prioritize CTP funding for projects in nonattainment areas and projects that advance the state's mobile emissions reduction strategy.

ANALYSIS:

Existing law:

1) Establishes the CTP, administered by the CEC, to provide funding to certain entities to develop and deploy innovative technologies that transform California's fuel and vehicle types to help attain the state's climate change policies. (Health and Safety Code §44272)

2) Designates the California Air Resources Board (CARB) as the state agency charged with monitoring and regulating statewide greenhouse gas (GHG) emissions, and requires CARB to ensure that GHG emissions are reduced to at least 40 percent below the 1990 level by December 31, 2030. (Health and Safety Code §38500 et seq.)

3) Sets, through the Federal Clean Air Act and its implementing regulations, National Ambient Air Quality Standards (NAAQS) for six criteria pollutants, designates air basins that do not achieve NAAQS as nonattainment areas, allows only California to set vehicular emissions standards stricter than the federal government, and allows other states to adopt either the federal or California vehicular emissions standards. (42 U.S.C. §7401 et seq.)

This bill expands the types of projects that the CEC must prioritize when awarding CTP funding to include the following:

1) Eligible projects in areas designated as "nonattainment" areas pursuant to the federal Clean Air Act.

2) Projects that advance the CARB mobile source emissions strategy.

Background

Mobile source emissions. Mobile sources and the fossil fuels that power them continue to contribute a majority of emissions of diesel particulate matter as well as smog- and particulate-forming pollutants such as oxides of nitrogen (NO_x), and the largest portion of GHG emissions in California (over 40 percent of the state's GHG emissions). Many parts of the state, including the South Coast Air Basin and San Joaquin Valley, have air quality that fails to meet the federal NAAQS for ozone (commonly understood as smog), and particulate matter (commonly understood as soot). Additionally, some communities bear a higher burden of toxic air pollution due to the emissions from mobile sources in their community,

especially from vehicles operating on diesel fuel, including many communities alongside heavy-duty truck congested roads, freeways, highways, sea ports, rail yards, and warehouses.

Mobile Source Strategy. On April 23, 2021, CARB released an updated draft Mobile Source Strategy that demonstrates how California can determine the pathways forward for the various mobile sectors that are necessary in order to achieve California's numerous air quality and climate goals and targets over the next 30 years. The 2020 Strategy intends to maximize the criteria pollutant reductions by going to zero-emission where feasible. Specifically, the 2020 Strategy calls for the deployment of approximately 1.4 million medium- and heavy-duty zero-emission vehicles (ZEVs) in California by 2045.

Clean Transportation Program (CTP). The CTP was established in 2007 by AB 118 (Nuñez, Chapter 750, Statutes of 2007) to provide funding to specified entities to develop and deploy technologies and alternative and renewable fuels in the marketplace, without adopting any one preferred fuel or technology, in order to help attain the state's climate change policies (and specifically to support the development of low-carbon fuels). Funding was reauthorized in 2013 by AB 8 (Perea, Chapter 401, Statutes of 2013) at then-existing levels until January 1, 2024. Over the 13 years of the program, the CTP has provided nearly a billion dollars to projects covering a broad spectrum of alternative fuels and technologies. Using funds collected from vehicle ($2) and vessel registration ($5/10), vehicle identification plates ($2.50), and smog abatement fees ($4), the program:

- Expedites development of conveniently located fueling and charging infrastructure for low- and ZEVs.
- Accelerates advancement and adoption of alternative fuel and advanced technology vehicles, including low- and zero-emission medium- and heavy-duty vehicles.
- Expands in-state production of alternative, low-carbon renewable fuel.
- Supports manufacturing and workforce training to help meet the needs of the state's growing clean transportation and fuels market.

Bill expands the list of projects prioritized for CTP funding. Existing law specifies the types of projects eligible for funding from the CTP. Within that list of eligible projects, existing law also specifies the types of projects for which the CEC must prioritize CTP funding. Existing law specifies 12 different criteria the CEC must consider when scoring a project for prioritization. These criteria include, but are not limited to a project's ability accelerate the development and use of alternative fuels, a project's capacity to support state climate goals, and a project's ability to

provide in-state economic and workforce benefits such as the transition of workers in the fossil fuel industry to clean transportation jobs. This bill expands the criteria the CEC must use to score eligible CTP projects for funding prioritization. Under this bill, the CEC must also prioritize projects that advance the state's mobile source emissions strategy developed by CARB and prioritize projects in locations designated as nonattainment areas pursuant to the federal Clean Air Act.

Related/Prior Legislation

SB 726 (Gonzalez, 2021) revises the CEC CTP in many ways mirroring the changes proposed by this bill, and requires the development of a sustainable transportation strategy by the CEC and the CARB. The bill is on the Assembly Inactive File.

SB 44 (Skinner, Chapter 279, Statutes of 2019) required CARB to update the 2016 Mobile Source Strategy by January 1, 2021, and every five years thereafter. Specifically, SB 44 required CARB to include a comprehensive strategy for the deployment of medium and heavy-duty vehicles for the purpose of meeting air quality standards and reducing GHG emissions.

AB 1697 (Bonilla, Chapter 446, Statutes of 2016) expanded the types of workforce development programs eligible for CTP funding and expanded the types of projects the CEC must prioritize for CTP funding to include projects that help transition workers from the fossil fuel industry to the clean transportation sector.

AB 8 (Perea, Chapter 401, Statutes of 2013) extended until January 1, 2024, extra fees on vehicle registrations, boat registrations, and tire sales in order to fund the

AB 118 (Núñez, Chapter 750, Statutes of 2007) enacted the California Alternative and Renewable Fuel, Vehicle Technology, Clean Air, and Carbon Reduction Act of 2007. Establishes the Enhanced Fleet Modernization Program and the Air Quality Improvement Program.

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

According to the Senate Appropriations Committee:

- CEC indicates that any costs associated with the bill will be minor and absorbable. Appropriations Committee staff notes, however, that this bill represents a significant restructuring of the CTP, including revisions to the types of projects eligible for funding, the amounts of funding that are dedicated to specified purposes, and the methods and requirements for prioritizing

expenditures and administering the program. Staff estimates that, at a minimum, the CEC would need to dedicate staff resources in the current fiscal year to undergo an accelerated rulemaking process to revise program regulations within six months of enactment to account for changes to the CTP prior to the 2022-2025 investment cycle. Staff estimates these one-time costs could be in the range of $50,000 to $150,000. (Alternative and Renewable Fuel and Vehicle Technology Fund -- ARFVT Fund)

- Ongoing cost pressures, potentially in the millions until 2024 (or longer if the program is extended), primarily related to requirements that the CEC annually increase program investments dedicated to the deployment of light-duty EV charging infrastructure and projects that advance the deployment of medium- and heavy-duty vehicles. This requirement would divert an increasing amount of funds each year from other eligible CTP expenditures and constrain the CEC's ability to respond to technological and market trends or to fund categories that may have a higher overall benefit. (ARFVT Fund)

SUPPORT: (Verified 8/26/22)

CALSTART (source)
ABB, Inc.
ABC Companies
Advanced Energy Economy
AMPLY Power
Anaheim Transportation Network
Antelope Valley Transit Authority
Arrival
Ballard Power Systems
California Electric Transportation Coalition
Center for Sustainable Energy
Ceres
Chanje Energy
Coalition for Clean Air
Communities for a Better Environment
Cruise
Electric Transportation Community Development Corporation
Electric Vehicle Charging Association
Environment California
eNow
GreenPower Motor Company
Momentum Dynamics Corporation

Motiv Power Systems
Natural Resources Defense Council
Nikola Corporation
Odyne Systems, LLC
Phoenix Motorcars
Proterra
SEA Electric
SunLine Transit Agency
The Greenlining Instituite
The Lion Electric Co.
Veloce Energy
Volvo Group North America

OPPOSITION: (Verified 8/26/22)

Alliance for Automotive Innovation
California Hydrogen Coalition

ARGUMENTS IN SUPPORT: According to the author, "The pollutants emitted from the transportation sector leave communities like mine with dirty air and public health hazards. Cleaning up the transportation sector is critical to demonstrating that environmental justice and economic development not only can co-exist but are complimentary to each other."

ARGUMENTS IN OPPOSITION: In opposition to this bill, the California Hydrogen Coalition, contends, "Currently, the CTP requires 20 percent of annual program dollars ($200M total) be directed toward hydrogen fueling. Except for eligibility under the Low Carbon Fuel Standard, the CTP is the only program supporting the development of hydrogen fueling infrastructure in the state. Conversely, the build-out of charging infrastructure receives support from a number of sources including well-above 20 percent of the CTP, investor and publicly-owned utilities, the Low Carbon Fuel Standard as well as the NRG and Volkswagen settlements which when combined, total well above $2.4 billion.

"For these reasons, we oppose AB 1389 unless amended to dedicate 50 percent of program dollars toward supporting the development of hydrogen fueling infrastructure for the light and heavy-duty markets as well as transit districts."

ASSEMBLY FLOOR: 58-12, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley,

Cunningham, Fong, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon

NOES: Bigelow, Chen, Megan Dahle, Davies, Gallagher, Kiley, Mathis, Patterson, Seyarto, Smith, Voepel, Waldron

NO VOTE RECORDED: Choi, Cooper, Daly, Flora, Lorena Gonzalez, Grayson, Mayes, Nguyen

Prepared by: Sarah Smith / E., U. & C. / (916) 651-4107
8/26/22 15:36:07

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

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

THIRD READING

Bill No: AB 1395
Author: Muratsuchi (D) and Cristina Garcia (D), et al.
Amended: 9/3/21 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-2, 7/12/21
AYES: Allen, Gonzalez, Skinner, Stern, Wieckowski
NOES: Bates, Dahle

SENATE APPROPRIATIONS COMMITTEE: 4-2, 8/26/21
AYES: Portantino, Kamlager, Laird, McGuire
NOES: Bates, Jones
NO VOTE RECORDED: Bradford

ASSEMBLY FLOOR: 42-21, 6/3/21 - See last page for vote

SUBJECT: The California Climate Crisis Act

SOURCE: Author

DIGEST: This bill declares that it is the policy of the state to achieve net zero greenhouse gas (GHG) emissions and reduce anthropogenic GHG emissions by at least 90% below the 1990 level no later than 2045.

Senate Floor Amendments of 9/3/21 clarify that the criteria that prevents the double counting of emissions reductions associated with utilizing CO_2 that is captured or removed from the atmosphere, applies to tracking progress towards the state's climate targets.

ANALYSIS:

Existing law:

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

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

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

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

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

This bill:

1) Declares it is the policy of the state to:

    a) Achieve net zero GHG emissions as soon as possible, but no later than 2045, and to achieve and maintain net negative GHG emissions thereafter.
    b) Ensure that by 2045, statewide anthropogenic GHG emissions are reduced by at least 90% below 1990 levels, which includes emissions prevented by carbon capture and storage (CCS).

2) Requires ARB, as the primary agency responsible for achieving the 2045 net zero GHG emission goal, to fulfill a number of specified duties. Such requirements of ARB include, but are not limited to:

a) Updating the scoping plan to identify and recommend measures to achieve net zero GHG emissions and reduce statewide anthropogenic GHG emissions by at least 90% below 1990 levels by 2045;
b) Coordinating with relevant state agencies to identify policies and strategies to achieving GHG emission reduction goals;
c) Reporting to the Legislature:

    i) Annually on progress towards five-year interim GHG emission reduction goals, as identified by ARB, and
    ii) By December 31, 2035 on the feasibility and tradeoffs of achieving 90% GHG emission reductions by 2045 relative to other scenarios;

d) Establish criteria for nature-based climate solutions;
e) Establish criteria for CCS and CO_2 removal technologies, and, among other stipulations, ensuring those criteria:

    i) Consider the benefits, risks, and uncertainties associated with these technologies;
    ii) Avoid any adverse impact on air quality and public health;
    iii) Omit crediting of captured CO_2 for fossil fuel extraction;
    iv) Require any emission reductions and carbon removal to be permanent, quantifiable, and done with contingencies for release or reversal; and
    v) Include robust monitoring, accounting, and annual reporting to ARB.

3) Requires the Legislative Analyst's Office to conduct independent analyses of ARB's progress towards these goals every two years and prepare a report detailing its review and any recommendations, to be made publicly available.

4) Requires state agencies, in working towards net zero GHG emissions, to:

    a) Engage the support, participation, and partnership of researchers, businesses, investors, and communities, as appropriate;
    b) Seek to support the health and economic resiliency of communities, particularly low-income and disadvantaged communities; and,
    c) Support climate adaptation and biodiversity.

Background

1) *The climate crisis in California.* California is particularly susceptible to the harmful effects of climate change, including an increase in extreme heat

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

California is already experiencing the effects of climate change now. For example, eight out of the past ten years have had significantly below-average precipitation. As of September 2020, the state has experienced a degree of wildfire activity that California's Fourth Climate Change Assessment initially forecasted to not occur until 2050. California's 2018 wildfires alone, less than half the size of the 2020 conflagrations, cost $148.5 billion in damages. Climate impacts are and will continue to result in devastating capital losses, loss of natural resources, health costs, as well as negatively influence mental health, food security, and displacement.

2) *Climate change and equity.* The effects of climate change to date have been felt the world over, but the most dire consequences have often struck those least able to defend themselves. Should reaching net zero GHG emissions be delayed and rapid warming allowed to continue, experts predict unprecedented numbers of deaths, ecosystem destruction, and human migration. In a 2019 report on climate change and poverty, the United Nations Human Rights Council states, "Addressing climate change will require a fundamental shift in the global economy, decoupling improvements in economic well-being from fossil fuel emissions… An over-reliance on the private sector could lead to a climate apartheid scenario in which the wealthy pay to escape overheating, hunger, and conflict, while the rest of the world is left to suffer." When equity is taken into account for GHG emissions reductions, "the combined emissions of the richest one per cent of the global population account for more than twice the poorest 50 per cent. The elite will need to reduce their footprint by a factor of at least 30 to stay in line with the Paris Agreement targets," according the United Nations Environment Programme (UNEP) 2020 Emissions Gap Report.

3) *Net zero GHG emissions*. Achieving net zero GHG emissions – a state where GHG emissions either reach zero or are entirely offset by equivalent atmospheric GHG removal – by mid-century is essential in all scenarios that would keep Earth's average temperature within 1.5 °C of its historical average. According to the UNEP 2020 Emissions Gap Report, which provides an annual

update on global progress on climate change, the consensus is that, globally, we are not on track to meet that goal. However, the report does state that, "the growing number of countries committing to net-zero emissions goals by mid-century is the most significant climate policy development of 2020. To remain feasible and credible, these commitments must be urgently translated into strong near-term policies and action."

4) *State climate goals.* Three US states (Massachusetts, Nevada, and Virginia) have net-zero GHG targets and at least 11 states have GHG emissions reduction targets signed into law, several with targets more ambitious than California's current target of 40% GHG emissions reduction by 2030. In California, Governor Brown's Executive Order (EO) B-55-18 established the goal of carbon neutrality by 2045, however this target is not codified in statute.

5) *Pathways to net zero*. In October 2020, ARB commissioned a report by Energy and Environmental Economics (E3) titled *Achieving Carbon Neutrality in California*, which laid out three scenarios for reaching net zero GHG emissions in California by 2045. The scenarios include (1) the High Carbon Dioxide Removal (CDR) scenario; (2) the Zero Carbon Energy scenario; and, (3) the Balanced scenario. All scenarios call for at least 80% GHG emission reduction. Regarding least-regret options, the report states "Achieving carbon neutrality by 2045 requires ambitious near-term actions around deployment of energy efficiency, transportation and building electrification, zero-carbon electricity, and reductions in non-energy, non-combustion greenhouse gas emissions. These least-regrets strategies are common across all deep decarbonization strategies." In other words, focusing on cutting GHG emissions is less risky than relying on CDR to offset emissions because, even if technology adoption or implementation is hampered, we are at least moving in the right direction.

6) *Carbon Capture and Storage.* CCS is a process of separating CO_2 from a point source, such as the flue of a gas-fired power plant or a cement plant, and putting it into long-term storage, usually by injecting CO_2 into a geological reservoir. CCS is generally considered by experts to be a CO_2 reduction strategy since it is only reducing CO_2 from anthropogenic sources that would have otherwise entered the atmosphere, rather than removing what was already there. According to a report called *California's Energy Future – The View to 2050* by the California Council on Science and Technology (CCST) updated in 2015, any use of fossil fuels for electricity generation would need to be paired with CCS to meet the current 2050 GHG emissions target (80% reduction). CCS is adoptable in California due to the existing geological storage from the

state's history of fossil fuel extraction. However, no CCS projects exist today in California, and it is unlikely that CCS could be scaled up at the pace needed due to the current regulatory framework for screening and authorizing projects. CCS remains controversial because it could prolong the life of fossil fuels and delay the transition to more sustainable fuels.

7) *GHG removal*. An essential part of carbon neutrality in any scenario is atmospheric GHG removal (also called negative emissions), to account for GHG emissions which cannot be mitigated. For GHG removal options in California, Lawrence Livermore National Lab (LLNL) produced a report in 2020 called *Getting to Neutral*, where they determined that California could remove on the order of 125 million tons of CO_2-equivalents per year from the atmosphere by 2045 to achieve carbon neutrality and achieve the current goal of 80% GHG emissions reduction by 2050. The report concludes that "California can achieve this level of negative emissions at modest cost, using resources and jobs within the State, and with technology that is already demonstrated or mature." The GHG removal methods that are outlined in the report are converting waste biomass to fuels and store CO_2, direct air capture (DAC) and CO_2 storage, and capture and storage of carbon through nature-based solutions on NWL.

   CO_2 removal technologies are generally understood to include converting and storing CO_2 from biomass, with or without creating energy. If biomass carbon that returns to the atmosphere when it decays, burns, or when it is used to produce energy is instead captured and stored, then the result is net negative GHG emissions. According to the *Getting to Neutral* report, these solutions hold the greatest potential for negative emissions across the state. These technologies are sometimes controversial due to potential impacts to ecosystems, food security, increased criteria pollutants, and land use.

   Direct air capture (DAC) is a technology where specially designed machines are used to remove CO_2 from the ambient air (rather than a point source) and permanently store it underground or turn it into valuable products. It has nearly unlimited technical capacity, provided its energy needs can be met from renewable sources. However, this is the most expensive negative emissions option and it can also have extensive land-use requirements.

   Nature-based solutions depend on careful management of NWL to enhance biological removal of CO_2 from the atmosphere, reduce emissions of GHGs, and preserve existing carbon stores in NWL. Some sources show that

California's NWL are a net GHG source, losing more carbon than they are sequestering, with wildfire being the largest cause of carbon loss. A number of entities in California's executive branch are developing policy and implementing programs to mitigate disturbances on NWL and make them into a healthy carbon sink in the future.

Comments

1) *Purpose of Bill.* According to the author, "Climate change is the defining crisis of our time and it is happening even more quickly than we originally thought. No corner of this state is immune from the devastating consequences of climate change. The rising temperatures are fueling environmental degradation, sea level rise, weather extremes such as drought, food and water insecurity, economic disruption, ocean acidification, and catastrophic wildfires. According to experts, to avert the most catastrophic impacts of climate change, we must limit atmospheric warming to 1.5 degrees Celsius, which necessitates California reaching net zero emissions by mid-century. This bill would require the state to achieve net zero emissions as soon as possible, but no later than 2045 and net negative greenhouse gas emissions thereafter. This bill additionally sets up a framework that recognizes the need to maximize emissions reductions and the need to deploy carbon negative strategies as well as nature-based solutions to help the state achieve this goal."

2) *Codifies carbon neutrality, and more*. By requiring the state to achieve net zero GHG emissions by 2045, this bill codifies the carbon neutrality goal included in EO B-55-18. It also expands upon it by requiring at least 90% reduction of anthropogenic GHG emissions compared to 1990 levels by the same year. The current statutory goal, set by SB 32 (Pavley, Chapter 249, Statutes of 2016), is a 40% decrease in GHG emissions by 2030. That means GHG emissions would need to be reduced at approximately the same pace of around 4% per year to achieve the 90% reduction by 2045. The remaining 10% of emissions would need to be balanced by CO_2 removal from the atmosphere to achieve net zero.

   It should be noted that additional negative emissions could account for more than 10%, meaning the state would be achieving net negative GHG emissions. It is the state's goal to have net zero or net negative emissions onward into the future, which will be necessary to prevent further warming. The longer it takes for GHG emissions to be reduced worldwide, the more sharply they will need to be cut in the future to avoid the worst effects of climate change. While California only plays one small part in global GHG reduction efforts globally, not doing so will come at a monumental cost. To allow temperatures to rise

past 1.5° or 2 °C this century is to accept unavoidable disruption to agriculture, trade, immigration, and public health. The less action California and other governments take to address the threat, the more impacts we will all suffer. To hold temperature rise to less than 1.5° or 2 °C this century will require enormous, heroic decarbonization efforts on the part of every wealthy city, state, province, and country.

3) *What is the best way to get to net zero?* Although there is widespread consensus on the need for eventual net zero GHG emissions to avoid the most devastating impacts of climate change, there is often disagreement about how to get there. Solutions span the range from market-based, compliance-based, technology-based, and more. Usually, the answer so far has been some combination of all-of-the-above.

   AB 1395 specifies that, to reach net zero GHG emissions, 90% of anthropogenic GHG emissions should be reduced by 2045. This is roughly in line with the E3 Zero Carbon Energy scenario, which would require an economy-wide shift to deep direct GHG emissions reductions and away from fossil fuel use. When setting a landmark climate goal such as this, the Legislature must consider what they want the future of California in 2045 to look like. Is it a future still dependent on fossil fuels—and the pollutants and environmental injustices that come with it—but with enough carbon removal from trees and DAC to achieve net zero? Or is it a radically different California, where, as the UN Human Rights Council said, we make a fundamental shift from decoupling improvements in economic well-being from fossil fuel emissions, doing so in such a way that provides necessary support, protects workers, and creates decent work. Whatever path is decided upon will either require setting the course now, or accepting the path of least resistance.

   The questions before the Legislature are, "How prescriptive should we be in determining the state's pathway to net-zero GHG emissions?" And, "Is it enough to get to net zero, or should we also prioritize things like environmental justice, health, jobs, or other factors in our climate goals?" One of the biggest questions is, "What sacrifices are we prepared to make to avoid the most catastrophic outcomes of climate change, and who makes them?"

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

According to the Senate Appropriations Committee,

- Unknown ongoing costs, likely in the millions of dollars annually (Cost of Implementation Account [COIA]), for the California Air Resources Board (ARB) to ensure that updates to the scoping plan identify and recommend measures to achieve the policy goals that would be established by this bill, identify strategies that support various solutions, and establish criteria, among other things.
- Unknown one-time costs, likely in the range of $250,000 to $500,000 (General Fund or special fund), for the California Natural Resources Agency (CNRA) to work with ARB to establish criteria for the use of nature-based climate solutions for the purposes of achieving the policy goals that would be established by this bill.
- Unknown but likely significant one-time costs, possibly in the low millions of dollars, for various state departments to revisit existing regulations, reopen proceedings, and make changes to current programs in order to conform to the policy goals that would be established by this bill.
- To the extent that this bill mitigates any state costs due to climate change, unknown but potentially significant state savings.

SUPPORT: (9/8/21)

350 Bay Area Action
350 Butte County
350 Conejo / San Fernando Valley
350 Humboldt
350 Sacramento
350 Silicon Valley
350 South Bay Los Angeles
350 Southland Legislative Alliance
350 Ventura County Climate Hub
Active San Gabriel Valley
Audubon California
Ban SUP (Single Use Plastic)
California Business Alliance for a Clean Economy
California Interfaith Power & Light
California League of Conservation Voters
California Releaf
Center for Climate Change and Health
Ceres
City of Del Mar

City of Irvine Mayor Farrah N. Khan
Clean Air Task Force
Clean Water Action
Climate Action Campaign
Coalition for Clean Air
Communitiy Water Center
E2 (environmental Entrepreneurs)
Ecosocialism Working Group of San Diego
Environment California
Environmental Defense Fund, Incorporated
Environmental Justice League
Environmental Working Group
Fossil Free California
Friends Committee on Legislation of California
Greenbelt Alliance
Hammond Climate Solutions
Indivisible Alta Pasadena
Indivisible California Green Team
Indivisible South Bay LA
Long Beach Gray Panthers
Los Angeles Business Council
Mayor Robert Whalen City of Laguna Beach
Natural Resources Defense Council
Nature Conservancy
Nextgen California
Planning and Conservation League
Sacramento Area Congregations Together
San Diego 350
San Diego Audubon Society
San Diego Green Building Council
San Diego Green New Deal Alliance
San Francisco Bay Physicians for Social Responsibility
Sierra Business Council
Sierra Club California
Socal 350 Climate Action
Spur
Surfrider Foundation San Diego Chapter
The Climate Reality Project San Diego Chapter
U.S. Green Building Council, Inc.
Union of Concerned Scientists

Voices for Progress
Zev 2030

OPPOSITION: (9/8/21)

Agricultural Council of California
Agricultural Energy Consumers Association
Almond Alliance of California
Association of California Egg Farmers
Beaumont Chamber of Commerce
Biofuelwatch
Bizfed Central Valley
Brower Dellums Institute for Sustainable Policy Studies and Action
Building Owners and Managers Association of California
California African American Chamber of Commerce
California Agricultural Aircraft Association
California Apartment Association
California Association of Realtors
California Association of Wheat Growers
California Bean Shippers Association
California Building Industry Association
California Business Properties Association
California Business Roundtable
California Cement Manufacturers Environmental Coalition
California Chamber of Commerce
California Citrus Mutual
California Cotton Ginners and Growers Association
California Council for Environmental & Economic Balance
California Environmental Justice Coalition
California Farm Bureau Federation
California Fuels and Convenience Alliance
California Grain & Feed Association
California Independent Petroleum Association
California Labor Federation, AFL-CIO
California League of Food Producers
California Manufacturers and Technology Association
California Pear Growers Association
California Pool & Spa Association
California Poultry Federation
California Rice Commission
California Seed Association

California State Association of Electrical Workers
California State Floral Association
California State Pipe Trades Council
California Walnut Commission
California Warehouse Association
Calpine Corporation
Carlsbad Chamber of Commerce
Center for Community Action and Environmental Justice
Central California Asthma collaborative
Central California Environmental Justice Network
Central Valley Business Federation
Chino Valley Chamber of Commerce
Climate 911
Climate Health Now
Corona Chamber of Commerce
Earthjustice
East Yard Communities for Environmental Justice
Environmental Health Coalition
Environmental/Justice Solutions
Far West Equipment Dealers Association
Fontana Chamber of Commerce
Futureports
Garden Grove Chamber of Commerce
Greater Coachella Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Greater Ontario Business Council
Hawthorne Chamber of Commerce
Hemet San Jacinto Valley Chamber of Commerce
Highland Chamber of Commerce
Independent Energy Producers Association
Indian People Organizing for Change
Indigenous Environmental Network
Industrial Environmental Association
Inland Empire Economic Partnership
International Brotherhood of Boilermakers, Western States Section
International Council of Shopping Centers
Long Beach Area Chamber of Commerce
Los Angeles Area Chamber of Commerce
Los Angeles County Business Federation
Menifee Valley Chamber of Commerce

Moreno Valley Chamber of Commerce
Murrieta Wildomar Chamber of Commerce
NAIOP of California, the Commercial Real Estate Development Association
North Orange County Chamber of Commerce
Orange County Business Council
Pacific Egg & Poultry Association
Perris Valley Chamber of Commerce
Physicians for Social Responsibility- Los Angeles
Physicians for Social Responsibility- San Francisco Bay Area Chapter
Pomona Chamber of Commerce
Rancho Cucamonga Chamber of Commerce
Redlands Chamber of Commerce
Redondo Beach Chamber of Commerce
Regional Hispanic chamber of Commerce
Sempra Energy Utilities
Simi Valley Chamber of Commerce
Sisters of St. Joseph of Carondelet Los Angeles
South Bay Association of Chambers of Commerce
State Building and Construction Trades Council of CA
Sunflower Alliance
Sustainable Agriculture & Energy of Monterey County
Temecula Valley Chamber of Commerce
Torrance Area Chamber of Commerce
Upland Chamber of Commerce
Valley Industry and Commerce Association
Walnut Creek Chamber of Commerce
Western Agricultural Processors Association
Western Growers Association
Western Independent Refiners Association
Western Independent Refiners Association
Western States Council Sheet Metal, Air, Rail and Transportation
Western States Petroleum Association
Yorba Linda Chamber of Commerce

ARGUMENTS IN SUPPORT: In a letter of support, a coalition of 38 environmental organizations argues, "There is no doubt that ambitious action is needed to address climate change and its impacts. The latest IPCC report underscores that absent immediate and aggressive efforts to reduce climate pollution and build resilience to the impacts of climate change, the climate challenges that we already face will continue to worsen, further threatening the health and wellbeing of communities and the environment."

ARGUMENTS IN OPPOSITION: In a letter of opposition, a coalition of 37 organizations representing businesses and industries argues, "This is an extraordinarily aggressive goal that would require large-scale transformation of California's entire economy. This policy is the equivalent of eliminating California's industrial, residential, commercial, transportation, electrical, and manufacturing sectors – effectively shutting down the entire state economy. AB 1395 also threatens the role technology can play in reducing emissions and achieving carbon neutrality."

ASSEMBLY FLOOR: 42-21, 6/3/21
AYES: Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Carrillo, Chau, Chiu, Cooley, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Lorena Gonzalez, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Chen, Choi, Megan Dahle, Daly, Davies, Flora, Fong, Gallagher, Gipson, Gray, Kiley, Lackey, Mathis, Nguyen, Patterson, Salas, Seyarto, Smith, Valladares, Voepel
NO VOTE RECORDED: Aguiar-Curry, Arambula, Burke, Calderon, Cervantes, Cooper, Cunningham, Grayson, Low, Maienschein, Mayes, O'Donnell, Rodriguez, Blanca Rubio, Villapudua, Waldron

Prepared by: Rylie Ellison / E.Q. / (916) 651-4108
9/9/21 15:49:30

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1410
Author: Rodriguez (D)
Amended: 8/22/22 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 6-1, 5/31/22
AYES: Wiener, Cortese, McGuire, Skinner, Umberg, Wieckowski
NOES: Ochoa Bogh
NO VOTE RECORDED: Bates, Caballero

SENATE JUDICIARY COMMITTEE: 9-1, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, McGuire, Stern, Wieckowski, Wiener
NOES: Jones
NO VOTE RECORDED: Borgeas

ASSEMBLY FLOOR: 54-17, 1/31/22 - See last page for vote

SUBJECT: Common interest developments

SOURCE: Author

DIGEST: This bill makes several changes to the Davis Sterling Act related to Common Interest Developments (CIDs).

Senate Floor Amendments of 8/22/22 delete one section of the bill which would have required evidence to be shown to the accused member when an HOA seeks to impose a monetary penalty against a member.

ANALYSIS:

Existing law:

1) Establishes the Davis-Stirling Common Interest Development Act, which provides rules and regulations governing the operation of residential CIDs and

the rights and responsibilities of homeowners and homeowners' association (HOA) members.

2) Allows members or residents of CIDs to do the following:

   a) Assemble peacefully during reasonable hours and in a reasonable manner for purposes relating to common interest development living, association elections, legislation, election to public office, or the initiative, referendum, or recall process.

   b) Use the common area for an assembly or meeting.

   c) Canvas and petition members

   d) Distribute or circulate information about common interest development living, association elections, legislation, election to public office, or the initiative, referendum, recall process, or other issues of concern to members and residents.

3) Allows an owner of separate interest in a CID to rent or lease any of the separate interests, accessory dwelling units, or junior accessory dwelling units to a renter, lessee, or tenant.

4) Establishes that a CID shall be managed by a HOA that may be incorporated or unincorporated. A HOA shall hold an election for a seat on the board of directors

This bill:

1) Allows members or residents of a CID to use social media or other online resources to discuss development living, association elections, legislation, election to public office, or the initiative, referendum, or recall process or any other issues of concern to members and residents.

   a) Does not require an association to provide social media or other online resources to members.

   b) Does not require an association to allow members to post content on the association's website.

2) Permits an owner of a separate interest in a CID to rent or lease a portion of the homeowner occupied separate interest to a renter, lessee, or a tenant for more than 30 days.

3) Prohibits HOAs from pursuing enforcement actions during declared emergencies if the nature of the emergency makes in unsafe or impossible for the homeowner to either prevent or fix the violation.

Background

CIDs. CIDs are a type of housing with separate ownership of housing units that also share common areas and amenities. There are a variety of different types of CIDs including condominium complexes, planned unit developments, and resident-owned mobilehome parks. In recent years, CIDs have represented a growing share of California's housing stock. In 2019 there were an estimated 54,065 CIDs in the state which contain five million housing units, or about 35% of the state's total housing stock.

CIDs are regulated under the Davis-Stirling Act (Civil Code Section 4000 et seq.) as well as the governing documents of the CID, including the bylaws, declaration, and operating rules. CIDs can also have Covenants, Conditions, and Restrictions (CC&Rs) which are filed with the county recorder at the time they are established. Owners in a CID are contractually obligated to abide by the CC&Rs and the governing documents of a CID, which specify rules, such as how an owner can modify their home. Additionally, CIDs include HOAs which are run by an elected board of directors and HOAs must follow specific voting procedures when considering board votes. This bill proposes to make a number of changes to laws on HOAs.

Comments

1) *Social Media Discussion.* Since HOAs operate under democratic self-governance principles, homeowners who are unhappy with the current state of affairs in their community would face a number of challenges mobilizing to elect new directors or seeking other avenues of policy change if their HOA can restrict all critical discussion. Residents and owners can assemble peacefully and distribute information freely under current law. This bill includes online information sharing under these provisions.

2) *More Housing.* Current law allows for owners to rent out a separate interest, accessory dwelling unit, or junior accessory dwelling unit. This bill adds that owners can rent out space in their homeowner occupied residence. It clarifies that it must be for 30 or more days, which would exclude short-term rentals. In effect, this would authorize rentals in HOAs that do not allow renting in their governance.

3) *Emergencies.* In light of the ongoing COVID-19 pandemic, last year the Legislature passed and the Governor signed into law SB 391 (Min, Chapter 276, Statutes of 2021), which allowed HOA board meetings to use teleconference procedures during a declared emergency if gathering in person is unsafe or impossible due to a declared emergency. This bill prohibits associations from enforcing provisions that would make it unsafe or impossible for the homeowner to prevent or fix during a declared emergency. In this way, only enforcement on certain provisions are prohibited allowing for the association to continue its governance for most of its bylaws and rules.

Related/Prior Legislation

SB 391 (Min, Chapter 276, Statutes of 2021) allowed HOA board meetings to use teleconference procedures during a declared emergency

AB 3182 (Ting, Chapter 198, Statutes of 2020) allowed the owner of separate interest in a CID to rent or lease out any separate interest, accessory dwelling unit, or junior accessory dwelling unit

SB 407 (Wieckowski, Chapter 236, Statutes of 2017) allowed residents or members of a CID to peacefully assemble, distribute information, canvas, among other activities

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

SUPPORT: (Verified 8/22/22)

Center for California Homeowner Association Law

OPPOSITION: (Verified 8/22/22)

California Alliance for Retired Americans
California Associations Institute - California Legislative Action Committee

ARGUMENTS IN SUPPORT: According to the author, "For most people, the purchase of a home will be the biggest investment in their lifetime. It is not in the public interest or the interest of the state's housing policies to discourage homeownership and make it more difficult to maintain that homeownership. CIDs are a cost-effective way for many to achieve the American Dream and enter the housing market. As such, that investment deserves to have a homeowner association that is ethical, working toward the best interest of the property owners and not going out of their way to harass, fine, or limit the enjoyment of the homeowners' property. As cities and counties struggle to meet state housing goals,

CID's are becoming more and more prevalent. We must assure these homeowner community leaders know their legal responsibilities in order to mitigate future issues. If not, we will not just see disharmony in these communities but increases in lawsuits, harassment, public safety calls, and a host of other unforeseen issues that will increase costs to homeowners and to the public."

ARGUMENTS IN OPPOSITION: According to the opposition, this bill gives too much power to a homeowners association to limit free speech. The opposition additionally states that signing a code of conduct that is vague deters people from becoming board members. The author's office deleted this portion of the bill.

ASSEMBLY FLOOR: 54-17, 1/31/22
AYES: Aguiar-Curry, Arambula, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Friedman, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Chen, Choi, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Muratsuchi, Patterson, Seyarto, Smith, Valladares, Waldron
NO VOTE RECORDED: Bauer-Kahan, Gabriel, Mayes, Nguyen, Voepel

Prepared by: Andrew Dawson / HOUSING / (916) 651-4124
8/23/22 15:00:49

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1416
Author: Santiago (D), Chiu (D) and Lorena Gonzalez (D), et al.
Amended: 8/24/22 in Senate
Vote: 21

SENATE ELECTIONS & C.A. COMMITTEE: 3-2, 6/21/22
AYES: Hertzberg, Leyva, Newman
NOES: Glazer, Nielsen

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 57-19, 1/31/22 - See last page for vote

SUBJECT: Elections: ballot label

SOURCE: California Clean Money Campaign

DIGEST: This bill requires the ballot label for a statewide measure and for a local measure, at the option of each county and if certain conditions are met, to include a listing of the supporters or opponents of the measure taken from the supporters and opponents of the ballot arguments printed in the voter information guide, as specified.

Senate Floor Amendments of 8/24/22 change the length of time specific organizations need to be in existence from two years to four years prior to being listed on the ballot in support or in opposition to a ballot measure, and make technical changes.

ANALYSIS:

Existing law:

1) Defines a ballot label to mean the portion of the ballot containing the names of the candidates or a statement of a measure. Requires the ballot label for

statewide measures to contain no more than 75 words and to be the condensed version of the ballot title and summary including the fiscal impact summary prepared pursuant to existing law.

2) Requires the Attorney General (AG) to prepare a ballot title and summary and ballot label for each statewide measure submitted to the voters, as specified.

3) Permits any voter or group of voters to prepare and file with the Secretary of State (SOS) an argument for or against any statewide measure for which arguments have not been prepared or filed by the official proponent, or the measure's author in the case of a legislative ballot measure, as specified.

4) Requires the SOS, if more than one argument for, or more than one argument against, a statewide measure is filed within the time prescribed, to select one of the arguments for printing in the state voter information guide and provides a process in selecting the argument, as specified. Provides that no more than three signatures shall appear with an argument printed in the state voter information guide, as specified.

5) Requires that a ballot for a measure proposed by a local governing body or submitted to the voters, as specified, include the words "Shall the measure (stating the nature thereof) be adopted?" Requires that the statement of the measure printed on the ballot be a true and impartial synopsis of the purpose of the proposed measure, and be in language that is neither argumentative nor likely to create prejudice for or against the measure.

6) Provides similar procedures and requirements to state law for submitting arguments for or against county, city, and school district ballot measures for inclusion in the local voter information guide as specified.

7) Requires the SOS to establish a ballot design advisory committee (BDAC) to assist the SOS in promulgating regulations that prescribe ballot design and format, as specified.

This bill:

1) Requires the ballot label for statewide ballot measures to include a listing of the names of the signers or of entities included in the text of the ballot arguments printed in the state voter information guide in support of and in opposition to the measure, as specified. Requires the SOS, for each statewide measure and

within one week after receiving the lists of supporters and opponents of a statewide measure, to provide the county elections officials the ballot label, consisting of the condensed ballot title and summary prepared by the AG followed by the list of supporters and opponents, as specified.

2) Permits the ballot label or similar description of a county, city, district, or school measure on a county ballot to include a listing of the names of the signers of the ballot arguments printed in the voter information guide in support of and in opposition to the measure. Permits a county board of supervisors, at least 30 days before the deadline for submitting arguments for or against county measures, to elect not to list supporters and opponents for county, city, district, and school measures on the county ballot and future county ballots. Prohibits a county from including a list of supporters or opponents for any county, city, district, or school measure if the county does not include a list of supporters or opponents for all measures for which the county receives a list that meets the requirements of this bill.

3) Requires the ballot label for a statewide ballot measure, and the ballot label for a local ballot measure if the county chooses, to include "Supporters" and "Opponents" after the condensed ballot title and summary and not exceed 125 characters in length, as specified.

4) Prohibits a supporter or opponent from being listed as a supporter or opponent on a ballot label for a statewide ballot measure, or on the ballot label for a local ballot measure if the county chooses, unless it meets certain requirements and is a nonprofit organization, a business, an association (for local measures only), a current or former elected official, or an individual, as specified.

5) Prohibits a supporter or opponent from being listed as a supporter or opponent on the ballot label if the supporter or opponent is a political party or is representing a political party.

6) Provides that if no list of supporters or opponents is provided or there are none that meet the requirements of this bill, then "Supporters" or "Opponents" shall be followed by "None submitted."

7) Provides for various formatting options to shorten the ballot length to accommodate the supporters and opponents being listed on the ballot, as specified.

8) Requires the proponents and opponents of the measure to provide the list of supporters or opponents, as appropriate, to the SOS for a statewide ballot measure or to the local elections official for a local ballot measure when submitting ballot arguments related to the ballot measure, as specified.

9) Requires the proponents and opponents for ballot measures, in order to enable the relevant elections official to determine whether supporters or opponents are eligible to be included as part of the ballot label pursuant to this bill, to submit specified documentation.

10) Makes findings and declarations.

11) Makes technical and conforming changes.

Background

State and County Voter Information Guides & Ballot Argument Signers. Each ballot argument or rebuttal printed in the state or local voter information guide may have up to three signers for a statewide measure and five signers for a local measure. For a statewide measure, any voter or group of voters may submit an argument. Each person submitting the argument, including the representative of an organization, must also provide an address and telephone number to the SOS. For a local measure, a member of the governing board of the local jurisdiction, an individual voter who is eligible to vote on the measure, or a bona fide association of citizens is able to file an argument. For both statewide and local measures, ballot argument signers are required to sign a form stating that the argument is true and correct to the best of their knowledge and belief. In addition, if an organization or association submits an argument, that entity is required to provide the SOS or local elections official with documentation, which may include articles of incorporation, by-laws, organization letterhead, or similar documentation, in order to enable the SOS or local elections official to determine whether it qualifies as a bona fide association of citizens.

Previous Legislative Efforts. There have been previous legislative efforts over the past few years trying to provide additional information about supporters and opponents of ballot measures on the ballot. First, SB 636 (Stern, 2019) would have required the ballot label for a statewide ballot measure to include a listing of the signers of the ballot arguments printed in the state voter information guide that support and oppose the measure. This bill passed the Senate and was considered by the Assembly Committee on Elections and Redistricting, but was held in that committee without recommendation.

During this legislative session, SB 90 and AB 1416 both sought to add supporters and opponents to the ballot label for a statewide measure from the signers of the ballot arguments printed in the voter information guide. These bills were amended over time, but the overall concept of placing supporters and opponents of a ballot measure on the ballot remained consistent.

Ballot Design Advisory Committee. In 2019, the Legislature passed and Governor Newsom signed AB 623 (Berman, Chapter 863, Statutes of 2019). AB 623, among other provisions, required the SOS to establish a BDAC to assist the SOS in promulgating regulations that prescribe ballot design and format. The BDAC's inaugural meeting took place on July 8, 2021.

Letter to the Ballot Design Advisory Committee and Response. In April 2021, as both bills were pending in their house of origin, the Chair of the Senate Committee on Elections and Constitutional Amendments and the Chair of the Assembly Committee on Elections (at the time, Assemblymember Marc Berman) sent a letter to the SOS requesting the BDAC's views on the desirability of the design changes proposed by SB 90 and AB 1416, including an evaluation of how these bills would affect the readability and usability of ballots. If the committee determines that these bills would affect readability and usability, the Chairs further requested the BDAC's recommendations on how to display the bills' specified content in a manner that is most consistent with good ballot design principles. The Chairs encouraged the BDAC to seek input from recognized experts in voter behavior to help inform the committee's opinion on how best to include this information on the ballot as a part of its consideration of the issues presented by SB 90 and AB 1416.

Following the letter and the establishment of the BDAC, SB 90 and AB 1416 were considered on July 8, 2021. The BDAC members raised a number of questions and comments about both measures, such as potential lawsuits, the length of future ballots, and making the ballot more complicated for voters. Following the July meeting, this issue returned in BDAC's meeting on December 9, 2021 where a discussion about issues related to spacing on the ballot, when supporters/opponents lists are delivered to an elections official, ballot measures for multi-county districts, multilingual ballots, and ballot readability concerns. The BDAC did not make formal recommendations nor did they take an official position on the two bills. The SOS has not indicated a position on these bills.

Comments

1) According to the author, in California, voters are responsible for weighing in on statewide policy through ballot measures. In recent elections, ballot measure campaigns have used significant funds to inundate media outlets with advertisements intended to sway, and at times, mislead voters. Although voters can look to the voter information guide to decipher the facts on ballot measures, this document can be long and confusing for voters to navigate.

   AB 1416 is a common sense solution that will bring transparency to ballot measure campaigns and provide voters with the critical information they need to cast an informed vote. This bill will require ballot measure labels to include a short list of those who support and oppose each measure, and require that each list be limited to no more than 15 words. Similar to the way in which voters look to party affiliation or occupancy when voting for a candidate, AB 1416 will provide them with clear information right on their ballot.

2) *Longer Ballots.* Under current law, the ballot label is capped at 75 words. This bill requires the names of persons and organizations supporting and opposing a state ballot measure to be added onto the ballot and could significantly increase the length of the ballot, especially if a county chose to include this information on the ballot for local ballot measures. Additionally, many county elections officials are required to translate ballot materials into multiple languages under state and federal law. To comply with these requirements, some counties include English and other languages on a single ballot, while other counties print separate ballots in languages other than English.

3) *Local Ballot Inconsistencies.* The requirements of this bill are only mandated for statewide measures, and may be adopted in some counties but not others. Voters in counties that have the supporters and opponents listed on their ballots may not have supporters and opponents listed in multi-county districts. This may lead to confusion for voters in some counties who will not see the support and opposition listed for all ballots measures on their ballot.

4) *Politicizing the Ballot.* Historically, other than the listing of a party preference for specific offices, the ballot has remained largely neutral, in terms of the ballot being politicized. The ballot itself is sometimes considered "sacred." After all the debate, endorsements, and advertisements, the ballot is where the voter makes the final decision to approve, reject, or skip a ballot measure and that decision is made on one of the most neutral ways possible (i.e. a ballot with

brief information about the measure, an option for "Yes," and an option for "No").

5) *Potential for Chicanery.* Additionally, even though there are protections for the types of organizations that could be listed, this could be gamed as newly established entities become more established over time. The short-term effects may have long-term ramifications and could actually create more confusion among voters if the names of organizations, or even individuals, are similar.

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

According to the Senate Appropriations Committee:

- The SOS indicates that it would incur annual costs of $25,000 to implement its provisions of the bill, for (1) staff time to review submitted documentation and provide counties with lists of supporters and opponents in short timeframes, and (2) review and recertify on demand systems and inspect and recertify ballot-printing facilities (General Fund).

- By imposing additional duties on county elections officials, this bill creates a state-mandated local program. To the extent the Commission on State Mandates determines that the provisions of this bill create a new program or impose a higher level of service on local agencies, local agencies could claim reimbursement of those costs (General Fund). The magnitude of the costs is unknown, but likely in the millions of dollars per election.

SUPPORT: (Verified 8/26/22)

California Clean Money Campaign (source)
American Family Voices
California Alliance for Retired Americans
California Church IMPACT
California Common Cause
California Democratic Party, various caucus chairs
California Environmental Voters
Californians Against Waste
CALPIRG
City of Mountain View
Courage California
Democratic Party of Contra Costa County
Democratic Party of the San Fernando Valley

Democrats of Rossmoor
Endangered Habitats League
Green Party of Sacramento County
Indivisible CA StateStrong
League of Women Voters of California
Los Angeles County Democratic Party
MapLight
Money Out People In
Money Out Voters In
Pax World LLC
Progressive Democrats of America, California
Public Citizen, Inc.
Santa Clara County Democratic Party
TakeItBack.org
Voices for Progress
Western Center on Law & Poverty

OPPOSITION: (Verified 8/26/22)

None received

ASSEMBLY FLOOR: 57-19, 1/31/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Mayes, Nguyen, Patterson, Seyarto, Smith, Voepel, Waldron

Prepared by: Scott Matsumoto / E. & C.A. / (916) 651-4106
8/26/22 15:36:08

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

SENATE RULES COMMITTEE AB 1426
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1426
Author: Mathis (R), et al.
Amended: 8/24/22 in Senate
Vote: 21

PRIOR VOTES NOT RELEVANT

SENATE FLOOR: 36-0, 8/8/22
AYES: Allen, Archuleta, Atkins, Bates, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Borgeas, Dahle, Gonzalez, Roth
(ACTION RESCINDED AND BROUGHT BACK TO THE SENATE TO INSERT 8/24/22 AMENDMENTS)

SUBJECT: California Advanced Services Fund: Broadband Adoption Account

SOURCE: Author

DIGEST: This bill clarifies that nonprofit religious organizations are eligible for grants from the broadband adoption account within the California Advanced Services Fund (CASF).

Senate Floor Amendments of 8/24/22 incorporate provisions of AB 2749 (Quirk-Silva, 2022) to prevent chaptering conflicts.

Senate Floor Amendments of 6/9/22 delete the prior contents of this bill and instead add nonprofit religious organizations to the list of entities eligible for CASF adoption grants.

ANALYSIS:

Existing law:

1) Establishes the CASF, which is administered by the California Public Utilities Commission (CPUC) to fund broadband infrastructure deployment in unserved areas through December 31, 2032. (Public Utilities Code §281(a-b)).

2) Defines an unserved area eligible for CASF grants as any community lacking broadband at speeds of 25/3 Mbps downstream and upstream and requires CASF-funded infrastructure to provide broadband service at speeds of at least 100/20 Mbps downstream and upstream. (Public Utilities Code §281(b))

3) Establishes various accounts within the CASF, including the broadband adoption account, which provides grants to organizations and government agencies to support broadband adoption and digital literacy. (Public Utilities Code §281(c))

4) Specifies that the following organizations are eligible for grants from the Broadband Adoption Account: local governments, senior centers, schools, public libraries, nonprofit organizations, certain and community-based organizations with public and after school digital inclusion programs. (Public Utilities Code §281(j))

This bill:

1) Adds nonprofit religious organizations to the list of groups eligible for grant funding from the CASF broadband adoption account.

2) Incorporates various provisions contained in AB 2749 (Quirk-Silva, 2022), regarding CASF streamlining, to prevent chaptering conflicts between this bill and AB 2749.

Background

CASF and the Adoption Account. The CASF is financed through and end user surcharge on in-state telecommunications services, and it provides grants for broadband infrastructure deployment and broadband adoption projects. While the majority of CASF funding is allocated to broadband infrastructure deployment, the CASF includes a broadband adoption account to provide grants for digital literacy programs and access to broadband-equipped resources such as computer labs.

Nonprofit religious organizations may already receive CASF adoption grants. This bill adds religious organizations to the list of entities eligible for grants from the broadband adoption account; however, existing law already authorizes CASF grants to nonprofit organizations, which may include religious organizations that offer publicly available broadband adoption programs. The CPUC has already awarded adoption grants to entities that meet certain definitions of a nonprofit religious organization. The CPUC awarded a $25,843 CASF adoption grant to the Sikh Gurdwara of San Jose to support digital literacy training and provide computing devices to 70 eligible participants. A 'gurdwara' is defined as a Sikh place of worship, and the San Jose location has been provided a tax exemption by Santa Clara County as a religious organization. The project is scheduled to complete in January 2023.

Related/Prior Legislation

AB 2749 (Quirk-Silva, 2022) would establish streamlining requirements for the CASF Federal Funding Account (FFA). The bill would require the CPUC to complete reviews of FFA applicants within six months. The bill would deem any completed application approved if the CPUC has not taken action on the application by its review deadline. The bill is currently pending on the Senate Floor.

AB 1349 (Mathis, 2021) as heard by the Senate Energy, Utilities and Communications Committee, contained provisions substantially similar to this bill. The bill would have added nonprofit religious organizations to the list of entities eligible for CASF adoption grants. The bill contained chaptering conflicts with SB 4 (Gonzalez, Chapter 671, Statutes of 2021) and AB 14 (Aguiar-Curry, Chapter 658, Statutes of 2021). The bill is currently on the Assembly Inactive File.

SB 4 (Gonzalez, Chapter 671, Statutes of 2021) and AB 14 (Aguiar-Curry, Chapter 658, Statutes of 2021) extended and revised the CASF, including increasing the minimum speed of CASF-funded infrastructure to 100/20 mbps, expanding the definition of an unserved area, updating the program's funding mechanism, and eliminating the right of first refusal.

SB 156 (Committee on Budget and Fiscal Review, Chapter 112, Statutes of 2021) made various changes necessary to implement the Budget Act of 2021. The bill allocated $3.25 billion for the creation of a state-owned middle mile broadband network overseen by the California Department of Technology. The bill also made conforming changes to the CASF, including establishing the Federal Funding

Account within CASF and allocating $2 billion of federal funds to the account for the purpose of funding projects that deploy last-mile broadband infrastructure.

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

SUPPORT: (Verified 8/23/22)

Sierra Business Council
The Rural Caucus of the California Democratic Party

OPPOSITION: (Verified 8/23/22)

None received

ARGUMENTS IN SUPPORT: According to the author, "For many small communities, especially within rural areas, the building of a religious organization is not simply a place of worship, but a building that is central to the wellbeing and functioning of the community. These buildings are commonly used for numerous non-religious activities and events, including after-school clubs and programs, a place where elderly groups meet, and as the venue for organizations that provide emotional support and addiction recovery services. In allowing religious organization to be eligible for funds within the Broadband Adoption Account, AB 1426 will increase broadband access and digital inclusion for the most vulnerable and remote regions of California."

Prepared by: Sarah Smith / E., U. & C. / (916) 651-4107
8/26/22 15:36:08

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1445
Author: Levine (D)
Amended: 8/24/22 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 6-2, 5/31/22
AYES: Wiener, Cortese, McGuire, Skinner, Umberg, Wieckowski
NOES: Caballero, Ochoa Bogh
NO VOTE RECORDED: Bates

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/21
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 57-16, 1/31/22 - See last page for vote

SUBJECT: Planning and zoning: regional housing need allocation: climate change impacts

SOURCE: Author

DIGEST: This bill allows regional council of governments (COGs) to consider climate change impacts as a factor to develop methodology of housing need for each city and county within the region.

Senate Floor Amendments of 8/24/22 clarify that COGs shall consider, rather than require, any regional housing needs allocation factor, not just climate change impacts, and add a section that permits no reimbursement requirement.

ANALYSIS:

Existing law:

1) Requires every city and county to prepare and adopt a general plan, including a housing element, to guide the future growth of a community. The housing

element must 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.

2) Provides that each community's fair share of housing be determined through the regional housing needs allocation (RHNA) process, which is composed of three main stages:

   a) The Department of Finance and Department of Housing and Community Development (HCD) develop regional housing needs estimates;

   b) COGs allocate housing within each region based on these estimates (where a COG does not exist, HCD makes the determinations); and

   c) Cities and counties incorporate their allocations into their housing elements.

3) Requires COGs, or HCD as applicable, to adopt a methodology for RHNA allocation and plan to further the following five statutory objectives, as specified:

   a) Increasing the housing supply and mix of housing types, tenure, and affordability,

   b) Promoting infill development and socioeconomic equity, protecting environmental and agricultural resources, and encouraging efficient development patterns,

   c) Promoting an improved intraregional relationship between jobs and housing,

   d) Balancing disproportionate household income distributions,

   e) Affirmatively furthering fair housing.

4) Requires COGs to survey its member jurisdictions to gather information on the factors that must be considered for inclusion in the methodology.

5) Requires COGs, or HCD as applicable, to include the following factors, to the extent sufficient data is available from local governments, to develop its RHNA plan, with written explanation of how each factor was incorporated into the RHNA plan methodology and how the methodology furthers the statutory objectives, as specified:

   a) Existing and projected jobs and housing relationship.

b) Opportunities and constraints to development of additional housing.

c) Distribution of household growth and opportunities to maximize public transportation.

d) Loss of units in assisted housing developments.

e) Percentage of existing households at each income level.

f) Rate of overcrowding.

g) Housing needs of farmworkers.

h) Housing needs generated by universities.

i) Housing needs of individuals and families experiencing homelessness.

j) Loss of units during a state of emergency.

k) Greenhouse gas emissions targets.

l) Any other factors adopted by COG that further objectives.

6) Identifies several criteria that cannot be used as the basis for a determination of a jurisdiction's share of the regional housing need, including:

a) Any ordinance, policy, voter-approved measure or standard that directly or indirectly limits the number of residential building permits issued.

b) Prior underproduction of housing from the previous RHNA cycle.

c) Stable population numbers from the previous RHNA cycle.

This bill:

1) Authorizes, beginning in 2025, that the methodology used by a COG, or HCD as applicable, for allocating regional housing needs, to additionally consider among these factors emergency evacuation route capacity, wildfire risk, sea level rise, and other climate change impacts.

2) States this bill is not to be used to constrain, limit, or prohibit regional residential development, and for any identification or consideration of climate change impacts, there must also be an identification of the climate change impact of not building enough housing.

3) Provides that no reimbursement is required by this bill because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this bill, as specified.

Background

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 (e.g., traffic), 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. Following a staggered schedule, cities and counties located within the territory of a metropolitan planning organization (MPO) must revise their housing elements every eight years, and cities and counties in rural non-MPO regions must revise their housing elements every five years. These five- and eight-year periods are known as the housing element planning period.

Before each revision, each community is assigned its fair share of the region's housing need for four separate income categories (very low-, low-, moderate-, and above-moderate income households) through a two-step process known as RHNA. In the first step, HCD determines the aggregate housing need for the region during the planning period the housing element will cover. In the second step, the COG for the region allocates the regional housing need to each city and county within the region.

Comments

1) *Climate change impacts in California.* California's climate is generally expected to become hotter, drier, and more variable over the coming decades, increasing the risk of catastrophic wildfires, droughts, floods, extreme weather, biodiversity loss, and sea level rise. These changes will impact California's residents, water supply, ecosystems, and economy. California's Fourth Climate Assessment estimates the economic cost to California for these losses by 2050 will be over $100 billion annually. The scale and type of impacts will vary

across regions. People who are already vulnerable, including lower-income and other marginalized communities, have lower capacity to prepare for and cope with extreme weather and climate-related events and are expected to experience greater impacts.

This bill authorizes COGs or HCD to consider the impacts of climate change in developing the methodology for allocating regional housing need within a region. Regions could consider emergency evacuation route capacity, wildfire risk, sea level rise, or any other climate change-related factor.

The requirements in this bill would not become operative until 2025. As such, it would first apply to the seventh eight-year cycle of RHNA and housing elements, which is the earliest this bill could be applicable, given that the regional distribution methodology for the 6th cycle was developed for most jurisdictions in 2019 and 2020. However, its delayed implementation may effect this bill's efficacy.

It is important to note that currently, COGs are able to consider any other factors it adopted that further the statutory objectives and there is nothing preventing a COG from considering climate change impacts as a factor to develop its RHNA methodology.

2) *Piecemeal RHNA reform?* It is likely that the requirements for the next RHNA cycle will be considered in a more holistic way in the coming years. Such a review would provide a more timely opportunity than proposed amendments in this bill to discuss the issue of climate change as it relates to the entire RHNA and housing element process. Adding one factor at a time without reexamining the entirety of the methodology may not be useful or accurate. The unfortunate reality is that most jurisdictions are impacted by various climate change effects, which rarely stay within its jurisdiction's boundaries. There are better factors and geographic analyses to determine where new housing should be developed, which does not need to undermine mitigation of climate change impacts. For example, the Association of Bay Area Governments (ABAG), while not required, did consider the impacts of climate change during the development of its 6th cycle RHNA methodology. Almost all of ABAG's member jurisdictions have a moderate to high climate change impact risk, therefore ABAG ultimately decided to focus on existing factors, such as access to high opportunity areas and proximity to jobs by automobiles and public transit.

3) *Unintended consequences?* While it is essential that the impact of climate change informs and improves how we plan for more housing, the general plan process already must account and plan for climate change. Creating an

additional factor in an already complex methodology of housing need may bring some unintended consequences, such as creating or promoting "no growth" planning policies that restrict opportunities for development.

Some anti-housing and anti-growth advocates make bad faith "climate arguments" against new housing, claiming that new housing in urbanized areas makes climate change worse, when the opposite is true. It is important not to empower anti-housing advocates to rely on climate change to kill new housing.

Intent language in the bill specifically states that these additional factors are not to be used to constrain, limit, or prohibit regional residential development, and for any identification or consideration of climate change impacts, there must also be an identification of the climate change impact of not building enough housing.

Related/Prior Legislation

SB 182 (Jackson, 2020) would have, among other provisions, required RHNA methodologies to further the objective of promoting resilient communities, and specifically reduce development pressure within areas with very high risk of wildfires. *The bill was vetoed by the Governor*.

AB 139 (Quirk-Silva, Chapter 335, Statutes of 2019) made several changes to housing element law regarding emergency shelters; including requiring a COG, or HCD where appropriate, to the extent sufficient data is available from local governments, to include the housing needs of individuals and families experiencing homelessness in developing the methodology that allocates regional housing needs.

AB 2238 (Aguiar-Curry, Chapter 990, Statutes of 2018) enacted a number of changes to laws affecting local agencies to account for threats posed by fires; including requiring a COG, or HCD where appropriate to include units lost during a Governor-declared emergency to the list of data considered to develop the methodology that allocates regional housing need.

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

According to the Senate Appropriations Committee:

- Staff estimates potential ongoing HCD costs of up to $61,000 annually, beginning in 2024-25, to evaluate additional data on emergency evacuation route capacity, wildfire risk, sea level rise, and other impacts caused by climate change when developing a final regional housing plan for cities and counties without a COG, to the extent the parties agree to consider those impacts. HCD

would also provide guidance to COGs for the preparation of local agency surveys and consultations with local jurisdictions to collect relevant data and information on the impacts of climate change on the development of housing. (General Fund)

SUPPORT: (Verified 8/22/22)

Alameda Citizens Task Force
California Environmental Voters
Catalysts
City of Agoura Hills
City of Rancho Palos Verdes
City of Santa Rosa
League of Women Voters of California
Livable California
Sierra Club California

OPPOSITION: (Verified 8/22/22)

City of Beverly Hills

ARGUMENTS IN SUPPORT: According to the author, "Climate disasters and the impacts of climate change on our state have made more and more places risky to live. In 2020, California experienced another devastating and record-breaking wildfire season; 4,257,863 acres burned, 33 lives were lost and 10,488 structures damaged or destroyed. In addition to fires, severe drought and periods of record-breaking heat, science has shown that climate change will result in a gradual and permanent rise in global sea levels. The U.S. Geological Survey estimates that by 2100, about 6 feet of sea level rise and recurring annual storms could impact over 480,000 California residents. Unfortunately, as our state faces a climate crisis, it also faces a housing crisis and local governments must factor the impacts of climate disasters into their housing planning. AB 1445 requires a council of governments, a delegate subregion or the Department of Housing and Community Development to, starting in January 1, 2025, additionally consider among other required factors, emergency evacuation route capacity, wildfire risk, sea level rise and other impacts of climate change. This bill will ensure local governments are taking into account the impending impacts of climate change and disasters on risk to residents when planning for housing in their communities."

ARGUMENTS IN OPPOSITION: The City of Beverly Hills is in opposition, stating that, "The state should not add new requirements to the RHNA planning

process without taking concrete steps to improve the current process and allow for greater collaboration between jurisdictions."

ASSEMBLY FLOOR: 57-16, 1/31/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, 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, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Chen, Choi, Gray

Prepared by: Mehgie Tabar / HOUSING / (916) 651-4124
8/26/22 15:36:09

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

SENATE RULES COMMITTEE AB 1467
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1467
Author: Cervantes (D)
Amended: 8/16/22 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 6-0, 6/1/22
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, Pan
NO VOTE RECORDED: McGuire

SENATE JUDICIARY COMMITTEE: 11-0, 6/14/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 75-0, 1/31/22 - See last page for vote

SUBJECT: Student safety: sexual assault and domestic violence procedures and protocols: sexual assault and domestic violence counselors

SOURCE: Author

DIGEST: This bill requires sexual assault and domestic violence counselors at public colleges and universities to be independent from the Title IX office, prohibits sexual assault and domestic violence counselors from releasing the identity of the victim without first obtaining specific permission, and authorizes the California State University (CSU) chancellor to collaborate with specified entities when reviewing executive orders related to discrimination, harassment, and retaliation.

Senate Floor Amendments of 8/16/22 include double-jointing language to avoid chaptering issues with AB 1936 (Ramos).

ANALYSIS:

Existing federal law:

1) Provides that, in part, "no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program of activity receiving Federal financial assistance." Enforcement of compliance is initiated upon the filing of a complaint alleging a violation of Title IX.

2) Requires each school district and county office of education, or a local public or private agency that receives funding from the state or federal government, to designate a person to serve as the Title IX compliance coordinator to enforce compliance at the local level, including coordinating any complaints of non-compliance. (Title IX of the Education Amendments of 1972 to the 1964 Civil Rights Act)

Existing state law:

1) Requires each educational institution in California (K-12 and postsecondary education) to have a written policy on sexual harassment, and requires schools to display the policy in a prominent location in the main administrative building or other area of the campus or schoolsite, be provided as part of any orientation program for new students, provided to each faculty member, administrative staff and support staff, and appear in any publication of the school that sets forth the rules, regulations, procedures and standards of conduct. (Education Code § 231.5 and § 66281.5)

2) Requires, as a condition of receiving state financial assistance, the appropriate governing board or body of each campus of the University of California (UC), CSU, California Community Colleges (CCC), private postsecondary educational institutions, and independent institutions of higher education to implement, and at all times comply with, specified requirements including disseminating a notice of nondiscrimination, designating an employee to coordinate compliance, and adopting rules and procedures within the policies required by state and federal law. (EC § 66281.8)

3) Requires the governing board of each community college district, the Trustees of the CSU, the Regents of the UC, and the governing boards of independent postsecondary institutions to adopt policies concerning campus sexual violence, domestic violence, dating violence, and stalking that includes an affirmative consent standard, detailed and victim-centered policies and protocols, and the

standard used in determining whether the elements of the complaint against the accused have been demonstrated is the preponderance of the evidence. (EC § 67386)

4) Requires the governing board of each community college district, the Trustees of the CSU, the Board of Directors of the Hastings College of the Law, and the Regents of the UC shall each adopt, and implement at each of their respective campuses or other facilities, a written procedure or protocols to ensure, to the fullest extent possible, that students, faculty, and staff who are victims of sexual assault receive treatment and information. If appropriate on-campus treatment facilities are unavailable, the written procedure or protocols may provide for referrals to local community treatment centers. (EC § 67385)

5) Requires schools to post information on their Web sites relative to the designated Title IX coordinator, rights of students and responsibilities of schools, and a description of how to file a complaint. (EC § 221.61)

6) Provides that the victim of a sexual assault has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication between the victim and a sexual assault counselor if the privilege is claimed by any of the following: a) The holder of the privilege; b) A person who is authorized to claim the privilege by the holder of the privilege; or c) The person who was the sexual assault counselor at the time of the confidential communication, but that person may not claim the privilege if there is no holder of the privilege in existence or if he or she is otherwise instructed by a person authorized to permit disclosure. (Evidence Code § 1035.8.)

7) Defines "sexual assault counselor," for purposes of the sexual assault counselor-victim privilege, to include, among others, a person who is engaged in sexual assault counseling on the campus of a public or private institution of higher education. (Evidence Code § 1035.2)

This bill requires sexual assault and domestic violence counselors at public colleges and universities to be independent from the Title IX office, prohibits sexual assault and domestic violence counselors from releasing the identity of the victim without first obtaining specific permission, and authorizes the California State University (CSU) chancellor to collaborate with specified entities when reviewing executive orders related to discrimination, harassment, and retaliation. Specifically, this bill:

Information about options for victims

1) Expands the options to be included in existing procedures ensuring that each victim of sexual assault or domestic violence to also include counselors and support services for victims, and alternative dispute resolution or other accountability processes.

Sexual assault and domestic violence counselors

2) Requires a sexual assault and domestic violence counselor to be independent from the Title IX office, and at a minimum, meet existing qualifications pursuant to the Evidence Code.

3) Prohibits services provided by sexual assault and domestic violence counselors from being contingent upon a victim's decision to report to the Title IX office or law enforcement.

4) Requires a sexual assault or domestic violence counselor to obtain specific permission from the victim before disclosing the identity of the victim, or any information that could reasonably be expected to reveal the identity of the victim, to the university or any other authority, including law enforcement, unless otherwise required to do so by applicable state or federal law.

Executive order review

5) Authorizes the Chancellor of the CSU, when reviewing and updating any executive orders relating to discrimination, harassment, and retaliation, to do so in collaboration with any of the following:

    a) The Systemwide Title IX Office.

    b) The Executive Vice Chancellor of Academic and Student Affairs, the Associate Vice Chancellor for Student Affairs and Enrollment Management, the Vice Presidents for Student Affairs, and other Executive Vice Chancellors and Vice Chancellors.

    c) The Office of General Counsel.

    d) The Vice Chancellor of Human Resources and other human resources and academic personnel officers.

    e) Campus Title IX coordinators.

    f) Presidents and provosts of the various campuses of the university.

g) Sexual assault counselors, confidential sexual assault victims advocates, and domestic violence counselors.

h) Representatives of the student bodies at each campus of the university.

i) The Vice Chancellor of Administration and Finance.

6) Requires the Chancellor of the CSU to submit the text of all executive orders to which this bill applies in an annual report to the respective chairs of the Assembly Committee on Higher Education and the Senate Committee on Education.

General

7) Defines "specific permission" to mean all of the following, and provides that unlimited or general permission for disclosure is not specific permission:

a) The permission is limited to disclosure to particular people, for a particular circumstance, or for a particular purpose for which the permission was given.

b) The permission is limited to the counselor to whom it was given.

c) The permission may be withdrawn.

Comments

Need for the bill. According to the author, "Sexual assault counselors are in a unique position to observe, assess, and participate in the response to campus sexual assault. On-campus counselors assist student survivors by providing both emotional support and information regarding on-campus and community-based resources. This can include counseling or crisis intervention, as well as assistance navigating the reporting process if a survivor wishes to file a report. Counselors may also accompany survivors to appointments, meetings, or hearings. Historically, sexual assault counselors have been exempt from having to report instances of sexual misconduct to the university or law enforcement, providing a confidential resource for survivors seeking help.

"To fully support survivors in a trauma-centered manner, it is vital that sexual assault counselors focus on the needs of the survivor. The role of a sexual assault counselor is to explain all options and also supports any decision the survivor makes, which may include action against the university. In these situations, the sexual assault counselor may fear losing their employment or other forms of

retribution due to their support of student survivors. Campus-based sexual assault counselors and advocates should have clear protections in place in order to have an ability to act independent from the University, in the best interest of the survivor without threat or fear of retaliation from the University."

Title IX. Title IX prohibits the exclusion of any person, on the basis of sex, from participation in, be denied the benefits of, or be subjected to discrimination under any educational program of activity receiving federal financial assistance. Title IX applies to schools, local and state educational agencies, and other institutions that receive federal financial assistance from the federal Department of Education.

An institution that receives federal financial assistance must operate its education program or activity in a nondiscriminatory manner free of discrimination based on sex, including sexual orientation and gender identity. Some key issue areas in which recipients have Title IX obligations are: recruitment, admissions, and counseling; financial assistance; athletics; sex-based harassment, which encompasses sexual assault and other forms of sexual violence; treatment of pregnant and parenting students; treatment of LGBTQI+ students; discipline; single-sex education; and employment.

Title IX offices conduct investigations of violations of Title IX, including sexual assault. This bill requires sexual assault counselors to be independent from the Title IX office. However, this bill does not preclude sexual assault counselors from being employed by the postsecondary educational institution.

Related/Prior Legislation

AB 1968 (Seyarto, 2022) requires the CSU and requests the UC to develop content and presentation standards and a model internet website template regarding the steps a student who is a victim of sexual assault may take immediately following the assault. AB 1968 requires the standards and model website template to be developed in collaboration with sexual assault survivor advocates and others who work with sexual assault victims. AB 1968 is pending on the Senate Floor.

AB 2683 (Gabriel, 2022) requires the CCC and CSU, and requests UC and any independent institution of higher education or private postsecondary education institution that receives state financial assistance, to provide annual sexual harassment and sexual violence prevention training to students. AB 2683 requires all students attending the CCC, CSU, and any independent institution of higher education or private postsecondary education institution that receives state financial assistance to attend an annual sexual violence and harassment training

beginning September 1, 2024. AB 2683 is on the Senate Appropriations Committee suspense file.

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

SUPPORT: (Verified 8/15/22)

California Legislative Women's Caucus
California State PTA

OPPOSITION: (Verified 8/15/22)

None received

ASSEMBLY FLOOR: 75-0, 1/31/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Flora

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8/17/22 15:51:42

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

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THIRD READING

Bill No: AB 1577
Author: Stone (D), Bryan (D), Kalra (D), Lee (D) and McCarty (D), et al.
Amended: 8/23/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-0, 6/22/22
AYES: Cortese, Durazo, Laird, Newman
NO VOTE RECORDED: Ochoa Bogh

SENATE JUDICIARY COMMITTEE: 8-1, 6/28/22
AYES: Umberg, Cortese, Durazo, Hertzberg, McGuire, Stern, Wieckowski, Wiener
NOES: Jones
NO VOTE RECORDED: Borgeas, Caballero

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

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

SUBJECT: Collective bargaining: Legislature

SOURCE: California Labor Federation, AFL-CIO

DIGEST: This bill establishes the Legislature Employer-Employee Relations Act (LEERA) to provide collective bargaining rights to Legislative employees, as specified.

Senate Floor Amendments of 8/23/22 (1) require the Legislature to freely provide to union representatives nonconfidential information necessary and relevant to the union's scope of representation; (2) state that the bill does not require the Legislature to provide confidential information which it defines as information contained in records exempt from public disclosure under federal or state law; and (3) excludes from "confidential information" the name, job title, office, workplace

location, work telephone number and email address, and home or personal telephone number and email address, if on file with the Legislature, for employees in the union's bargaining unit.

Senate Floor Amendments of 8/22/22 define "confidential" legislative employees and exclude them from the bill's collective bargaining provisions.

ANALYSIS:

Existing law:

1) Governs collective bargaining in the private sector under the federal National Labor Relations Act (NLRA) but leaves to the states the regulation of collective bargaining in their respective public sectors. While the NLRA and the decisions of its National Labor Relations Board (NLRB) often provide persuasive precedent in interpreting state collective bargaining law, public employees generally have no collective bargaining rights absent specific statutory authority establishing those rights (29 United State Code § 151 et seq.).

2) Provides several statutory frameworks under California law to provide public employees collective bargaining rights, govern public employer-employee relations, and limit labor strife and economic disruption in the public sector through a reasonable method of resolving disputes regarding wages, hours and other terms and conditions of employment between public employers and recognized public employee organizations or their exclusive representatives. These include the Dills Act, which provides collective bargaining for state employees of the executive branch and establishes a process for determining wages, hours, and terms and conditions of employment for represented employees. The Act excludes managers and confidential employees from bargaining rights. (Government Code § 3512 et seq.)

3) Requires the Governor and the recognized state employee organizations to meet and confer in good faith regarding wages, hours, and other terms and conditions of employment and, if they reach an agreement, to jointly prepare a written memorandum of understanding (MOU), which the Governor shall present, when appropriate, to the Legislature for determination. (GC § 3517 et seq.)

4) Establishes a civil service that includes every officer and employee of the State except as otherwise provided in the Constitution and requires that the State make permanent appointment and promotion in the civil service under a

general system based on merit ascertained by competitive examination. (Cal. Const., art. VII, § 1.)

5) Defines the powers of state government as legislative, executive, and judicial and prohibits persons charged with the exercise of one power from exercising either of the others except as permitted by the Constitution. (Cal. Const., art. III, § 3.)

6) Establishes the California Legislature which consists of the Senate and Assembly and in which the people, through the state constitution, have vested the state's legislative power. (Cal. Const., art. IV, § 1.)

7) Exempts officers and employees appointed or employed by the Legislature, either house, or legislative committees from the state civil service. (Cal. Const., art. VII, § 4, subd. (a))

8) Limits for the Legislature, state-financed incumbent staff and support services, among other things, in order to counter the unfair incumbent advantages that discourage qualified candidates from seeking public office and create a class of career politicians, instead of the citizen representatives envisioned by the Founding Fathers. (Cal. Const., art. IV, § 1.5.)

9) Prohibits the total aggregate expenditures of the Legislature for the compensation of members and employees of, and the operating expenses and equipment for, the Legislature from exceeding an amount equal in 1991 to $950,000 per member for that fiscal year or 80 percent of the amount of money expended for those purposes in the preceding fiscal year and for each fiscal year thereafter, an amount equal to that expended for those purposes in the preceding fiscal year, adjusted and compounded by an amount equal to the percentage increase in the appropriations limit for the State established pursuant to Article XIII B of the Constitution. (Cal. Const., art. IV, § 7.5.)

10) Establishes the Judicial Council Employer-Employee Relations Act (JCEERA) which provides collective bargaining rights to Judicial Council employees, as specified. (GC § 3524.50 et seq.)

11) Requires the Administrative Director of the Courts, or his or her designated representatives, acting with the authorization of the Chairperson of the Judicial Council, to meet and confer in good faith regarding wages, hours, and other terms and conditions of employment with representatives of recognized employee organizations, and to consider fully such presentations as are made

by the employee organization on behalf of its members prior to arriving at a determination of policy or course of action. (GC § 3524.63 et seq.)

12) Requires the Administrative Director of the Courts and the recognized employee organization, if they reach an agreement, to jointly prepare a written memorandum of the agreement, which the Administrative Director of the Courts shall present, when appropriate, to the Legislature for appropriation of funding and amendment of any related statutes. (GC § 3524.63 et seq.)

13) Establishes the Public Employee Relations Board (PERB), a quasi-judicial administrative agency, to administer the collective bargaining statutes covering public employees including school, college, state, local agency, and trial court employees. PERB consists of five members appointed by the Governor by and with the advice and consent of the Senate. Existing law tasks PERB with administering several public employee labor relations statutes that provide collective bargaining to California public employees, including the Dills Act and JCEERA, and adjudicating unfair labor practice claims under the respective acts. (GC § 3541 et seq.)

This bill:

1) Authorizes collective bargaining for legislative employees by enacting the Legislature Employer-Employee Relations Act (LEERA).

2) Replaces the conjunctive conjunction "and" with the disjunctive conjunction "or" and replaces references to "the Speaker of the Assembly and the President pro Tempore of the Senate" with "the Assembly Committee on Rules or the Senate Rules Committee" in the definition of "Legislature". Recognizes each chamber's Rules Committees as the separate employer of its respective chamber's employees and clarifies somewhat that LEERA should apply to each house as a separate employer toward their respective employees.

3) Prohibits the Public Employment Relations Board (PERB) from including within a bargaining unit, employees from both the Assembly and Senate. Clarifies that the two chambers are separate employers and that LEERA should apply to them separately.

4) Eliminates the provision that requires side letters be referred to the Joint Legislative Budget Committee for consideration. Supports the possibility that LEERA will apply to each house as separate employers under LEERA's collective bargaining framework.

5) Clarifies which legislative employees are excluded from LEERA by excluding the category "*Department or office leader"* from the definition of "employee" and defining the category to mean "any supervisory employee having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or effectively to recommend this action, if, in connection with the foregoing, the exercise of any authority is not of a merely routine or clerical nature, but requires the use of independent judgment."

6) Excludes confidential legislative employees from collective bargaining and defines "Confidential employee" to mean any employee who is required to develop or present management positions with respect to employer-employee relations or whose duties normally require access to confidential information contributing significantly to the development of management positions.

7) Requires the Legislature to freely provide to union representatives nonconfidential information necessary and relevant to the union's scope of representation; specifies that the bill does not require the Legislature to provide confidential information defines as information contained in records exempt from public disclosure under federal or state law; but excludes from "confidential information" the name, job title, office, workplace location, work telephone number and email address, and home or personal telephone number and email address, if on file with the Legislature, for employees in the union's bargaining unit. Provides union representatives access to employee information, including personal contact information, as specified.

8) Requires the respective houses to pass resolutions to ratify MOUs, adopt side letters, or impose Last Best Final Offers instead of doing so through statutes requiring the Governor's approval. Eliminates, to avoid some potential separation of powers issues, one source of executive branch interference in the Legislature's internal affairs.

9) Specifies that the bill becomes operative on July 1, 2024, thereby allowing time for the respective Rules Committee representatives and employee representatives to begin meeting and conferring, and for PERB to begin preparing for possible union organizing elections, and for developing appropriate bargaining units.

10) Eliminates references to "bona fide associations" in the provision regarding employee organizations for which the Legislature would be required to adopt rules to register and recognize as employee organizations. Bona fide

associations are organizations of employees that do not have as one of their purposes representing employees in employer-employee relations.

Comments

Need for this bill? According to the author:

> The Legislature is the only branch of California's government whose employees cannot reap the benefits and protections that come with the right to collectively bargain. This imbalance of power leaves legislative employees little to no opportunity to address their concerns in a meaningful way or shape their workplace conditions.
>
> AB 1577 will establish the Legislature Employer-Employee Relations Act and grant legislative employees the right to collectively bargain for the terms and conditions of their employment. This will allow employees the right to form or join a union to negotiate with employers over workplace conditions such as wages, benefits, health and safety issues, and job training.

Continuing Issues/Concerns

Although recent amendments address several issues, some remain, including the following:

- Continued separation of powers problems arising from PERB's status as an executive branch agency composed of members appointed by the Governor. An appellate panel from PERB's final orders appointed by the Legislature or a binding arbitration mechanism might resolve this issue.

- No "excluded position blanket" similar to that provided to the Chief Justice in the judicial branch to ensure the employer has sufficient staff to develop its bargaining positions.

- The potential chilling effect from the bill's misdemeanor fine provision that exposes licensed employees to regulatory discipline and potential license revocation whose job otherwise requires they provide unfiltered counsel to the Legislature and its members.

- No statutory limitation on the length of MOU terms nor requirement that MOU terms align with Legislative terms. Long MOU terms could impose conditions on future Legislatures that may invoke unconstitutional restrictions on their power.

- Continued conflict of interest issues related to the possibility of unions representing legislative employees while advocating for legislative initiatives. A non-lobbying provision or an independent, non-affiliated union requirement may address this issue.

- No statutory prohibition or regulation on strike actions. The Legislature may wish to consider either a ban or requirement that strike actions only occur during a defined window period to avoid significant disruption of the legislative calendar and the ability particularly of members with short terms to accomplish their legislative objectives for their constituents.

- Requirements that the Legislature provide employees' personal, non-work contact information (presumably intended to facilitate union-employee communication) may be viewed by some employees as an intrusion on their privacy. Although language provides that the Legislature only must turn over the information if it is on file with the Legislature, the Legislature has required staff to involuntarily provide personal contact information as part of its working conditions, and therefore, presumably has that information on file.

(NOTE: Please see the Senate Labor, Public Employment and Retirement Committee policy analysis for a more detailed list of issues and concerns.)

Related/Prior Legislation

AB 314 (Gonzalez, 2021) was substantively identical to this bill. The Assembly held AB 314 at the Desk.

AB 969 (Gonzalez, 2019) was substantively identical to this bill. The Assembly Public and Retirement Committee held AB 969 in committee.

AB 2048 (Gonzalez, 2018) was substantially similar to this bill except that bill included specific provisions related to fair share fees (i.e., fees non-union members would have to pay for the benefits that they received resulting from the union's bargaining efforts). U.S. Supreme Court case law has since prohibited mandatory fair share fees.

AB 83 (Santiago, 2017, Chapter 835, Statutes of 2017) established the Judicial Council Employer-Employee Relations Act, which provides collective bargaining rights to specified Judicial branch employees.

AB 874 (Santiago, 2016) would have applied the Ralph C. Dills Act to certain specified employees of the Judicial Council, thereby providing collective bargaining rights to these employees. The Governor vetoed the bill.

AB 2355 (Floyd, 2000) would have included nonsupervisory Legislative employees within the definition of "state employees" in the Ralph C. Dills Act, which authorizes collective bargaining for state employees.

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

According to the Senate Appropriations Committee:

- The Public Employment Relations Board (PERB) estimates that it would incur first-year costs of $124,000, and $95,000 annually thereafter, to implement the provisions of the bill (General Fund).

- This bill would result in annual costs to the Legislature to establish and maintain labor and employee relations functions (General Fund). Additionally, to the extent that the bill results in salary or benefits increases resulting from collective bargaining, it could lead to increased ongoing employment costs. However, under the Constitution, the Legislature's annual spending is capped; consequently, the costs resulting from this bill could not be accommodated through budgetary increases relative to current law, and thus would likely displace existing workload and spending. (See Staff Comments).

- This bill could result in minor additional penalty revenue to the state.

SUPPORT: (Verified 8/24/22)

California Labor Federation, AFL-CIO (source)
AFSCME
California Alliance for Retired Americans
California Conference Board of the Amalgamated Transit Union
California Conference of Machinists
California Democratic Party
California Federation of Teachers AFL-CIO
California IATSE Council
California Nurses Association
California Professional Firefighters
California Protective Parents Association
California School Employees Association
California State Building and Construction Trades Council
California State Council of Laborers
California State Council of Service Employees International Union
California State Legislative Board, Sheet Metal, Air, Rail and Transportation
California Teachers Association

California Teamsters Public Affairs Council
California Women's Law Center
Center for Judicial Excellence
Engineers & Scientists of California, Local 20, IFPTE, AFL-CIO
Los Angeles County Federation of Labor, AFL-CIO
Professional and Technical Engineers, IFPTE Local 21, AFL-CIO
SEIU Local 1000
State Building and Construction Trades Council of California, AFL-CIO
Transport Workers Union of America, AFL-CIO
Unite Here, Local 11
United Auto Workers, Local 2865
United Auto Workers, Local 5810
United Domestic Workers/AFSCME, Local 3930
United Food & Commercial Workers Western States Council
Unite-Here, AFL-CIO
Utility Workers Union of America, AFL-CIO
Workers - Transportation Division
Two individuals

OPPOSITION: (Verified 8/24/22)

Govern for California

ARGUMENTS IN SUPPORT: According to the California Labor Federation, AFL-CIO:

> The Legislature stands as the only branch of California government whose employees cannot reap the benefits and protections that come with the right to collective bargaining. Legislative employees are also exempt from civil service rules, can be hired and fired at will, and lack many of the workplace protection laws that cover employees in private and other public employment settings. This imbalance of power leaves legislative employees little or no opportunity to shape their workplace conditions or address their concerns in a meaningful way.
>
> In recent years, there has been a wave of campaign, political, and legislative employees across the country successfully unionizing and entering into collective bargaining agreements. The 2020 campaign cycle included many unionized campaigns, with several Democratic Presidential campaigns voluntarily recognizing and ratifying collective bargaining agreements with their staff, including the campaign of President Joseph R. Biden. Last year, employees of the Oregon State Legislature became the first in the nation to

successfully form a statewide legislative staff union. Earlier this year, the Washington State Legislature also followed suit and passed legislation granting their staff the right to unionize. Most notably last month, the House of Representatives passed a resolution granting political and apolitical staffers, including legislative aides, district and committee staff, the legal protections to form a union.

In any workplace, an imbalance of power leaves workers with little to no recourse to make their voice heard. In recent years, various events, including the #MeToo Movement and the COVID-19 pandemic, have shed a spotlight on legislative employees' fear of retribution for voicing workplace concerns and their lack of tangible workplace protections in statute due to their at-will status. AB 1577 will grant employees of the Legislature agency over the decision to form and join a union, without fear of retaliation, and have a collective voice over their working conditions and protections in the workplace.

ARGUMENTS IN OPPOSITION: According to Govern for California:

AB 1577, while well-intentioned, is replete with potential conflicts of interest that could easily frustrate the Legislature's critical work. As legislative employees play an indispensable role assisting elected officials to serve their constituents, how could they maintain this service if a union representing them could take contrary positions to bills proposed by Assembly members or Senators? Politically, these unions could also work to defeat legislators and significantly affect the employment of the very people charged with serving these elected officials.

"Rather than allowing legislative employees to unionize. We recommend that the Legislature thoroughly evaluate the basic protections granted to private sectors employees and work to extend those protections to employees of the legislative branch. This would also send the salutary message that the California Legislature is willing to subject itself to the same requirements it imposes on the private sector.

ASSEMBLY FLOOR: 77-0, 4/29/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra,

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

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
8/24/22 19:23:22

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

SENATE RULES COMMITTEE AB 1601
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1601
Author: Akilah Weber (D)
Amended: 8/25/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 6/13/22
AYES: Cortese, Durazo, Laird, Newman
NOES: Ochoa Bogh

SENATE GOVERNMENTAL ORG. COMMITTEE: 9-3, 6/28/22
AYES: Dodd, Allen, Archuleta, Becker, Bradford, Hueso, Kamlager, Portantino, Rubio
NOES: Nielsen, Jones, Melendez
NO VOTE RECORDED: Borgeas, Glazer, Wilk

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 51-19, 5/26/22 - See last page for vote

SUBJECT: Employment protections: mass layoff, relocation, or termination of employees: call centers

SOURCE: Communications Workers of America, District 9

DIGEST: This bill requires call center employers, as defined, to include "This is a notice of call center relocation" in notices given to employees 60 days before a planned relocation of a call center in California.

Senate Floor Amendments of 8/25/22 make the following changes:

1) Require an employer notice of relocation of a call center under Labor Code Section 1401 to contain "This notice is for the relocation of a call center."

2) Require the Employment Development Department to compile and publish a list of call center employers that have given notice described above.

3) Define, for the provisions of Article 2 of the bill, "relocation of a call center" includes when the employer intends to move its call center, or one or more facilities or operating units within a call center comprising at least 30 percent of the call center's or operating unit's total volume compared to the average for the previous 12 months.

4) Require that employers who appear on the list described above be ineligible for state grants or loans for five years, as specified. Allow a relevant state agency, as defined, to waive this ineligibility if good cause exists.

5) Require that the above updated notice requirements under Labor Code Section 1410 be enforced by the same code sections which apply penalties to Labor Code Section 1401, including but not limited to Labor Code Sections 1402, 1403, 1404,1406, and 1407. However, an employer found in violation of Labor Code Section 1410 is not necessarily guilty of a violation of Labor Code Section 1401.

6) Allow the Labor Commissioner to enforce notice requirements for employers regarding layoffs (LC §1401) or updated notice requirements discussed above.

ANALYSIS: Existing federal law establishes the Worker Adjustment and Retraining Notification (WARN) Act, which prohibits an employer from ordering a plant closing or mass layoffs until the end of a 60-day period after the employer serves written notice to (1) each representative of the affected employees or to each affected employee; and (2) the state or entity designated by the state to carry out rapid response activities and the chief elected official of the unit of local government within which such closing or layoff is to occur. (Title 29 §2101 United States Code)

Existing state law:

1) Defines the following terms:

   a) "Covered establishment" means any industrial or commercial facility or part thereof that employs, or has employed within the preceding 12 months, 75 or more persons.

   b) "Employer" means any person who directly or indirectly owns and operates a covered establishment. A parent corporation is an employer as to any

covered establishment directly owned and operated by its corporate subsidiary.

c) "Layoff" means a separation from a position for lack of funds or lack of work.

d) "Mass layoff" means a layoff during any 30-day period of 50 or more employees at a covered establishment.

e) "Relocation" means the removal of all or substantially all of the industrial or commercial operations in a covered establishment to a different location 100 miles or more away.

f) "Termination" means the cessation or substantial cessation of industrial or commercial operations in a covered establishment.

g) "Employee" means a person employed by an employer for at least 6 months of the 12 months preceding the date on which notice is required. (Labor Code §1400)

2) Establishes the California State WARN Act, which prohibits an employer from ordering a mass layoff, relocation, or termination at a covered establishment unless, 60 days before the order takes effect, the employer gives written notice of the order to the following:

a) The employees of the covered establishment affected by the order.

b) The Employment Development Department (EDD), the local workforce investment board, and the chief elected official of each city and county government within which the termination, relocation, or mass layoff occurs.

c) Further orders an employer required to give notice of any mass layoff, relocation, or termination under this act to include in its notice the elements required by the federal WARN Act. (Labor Code §1401)

3) Specifies employer is not required to provide notice if a mass layoff, relocation, or termination is necessitated by a physical calamity or act of war. (Labor Code §1401)

4) States that an employer who fails to give notice as required is liable to each employee who was entitled to the notice and lost their employment for:

a) Back pay at the average regular rate of compensation received by the employee during the last three years of his or her employment, or the employee's final rate of compensation, whichever is higher.

b) The value of the cost of any benefits to which the employee would have been entitled had his or her employment not been lost, including the cost of any medical expenses incurred by the employee that would have been covered under an employee benefit plan.

c) Liability for this penalty is calculated for the period of the employer's violation, up to a maximum of 60 days, or one-half the number of days that the employee was employed by the employer, whichever period is smaller. (Labor Code §1402)

5) Provides that the amount of an employer's liability described in the above section is reduced by the following:

a) Any wages, except vacation moneys accrued prior to the period of the employer's violation, paid by the employer to the employee during the period of the employer's violation.

b) Any voluntary and unconditional payments made by the employer to the employee that were not required to satisfy any legal obligation.

c) Any payments by the employer to a third party or trustee, such as premiums for health benefits or payments to a defined contribution pension plan, on behalf of and attributable to the employee for the period of the violation. (Labor Code §1402)

6) Provides that an employer is not required to comply with the WARN notice requirements if EDD determines that all of the following conditions exist:

a) As of the time that notice would have been required, the employer was actively seeking capital or business.

b) The capital or business sought, if obtained, would have enabled the employer to avoid or postpone the relocation or termination.

c) The employer reasonably and in good faith believed that giving the WARN notice would have precluded the employer from obtaining the needed capital or business.

d) The employer provided the department with both a written record consisting of all documents relevant to the determination of whether the employer was actively seeking capital or business, as specified by the department and an affidavit verifying the contents of the documents contained in the record.

e) This section does not apply to a notice of a mass layoff, as defined. (Labor Code §1402.5)

7) Imposes a penalty of $500 on an employer for each day of an employer's noncompliance if that employer fails to give notice as required to EDD, the local workforce investment board, and the chief elected official of each city and county government. The employer is not subject to this civil penalty if the employer pays to all applicable employees the amounts for which the employer is liable within three weeks from the date the employer orders the mass layoff, relocation, or termination. (Labor Code §1403)

8) Allows a person, including a local government or an employee representative, seeking to establish liability against an employer to bring a civil action on behalf of the person, other persons similarly situated, or both, in any court of competent jurisdiction. The court may award reasonable attorney's fees as part of costs to any plaintiff who prevails in such a civil action. (Labor Code §1404)

9) Authorizes the Labor Commissioner to examine the books and records of an employer for the purposes of any WARN Act investigation or proceeding. (Labor Code §1406)

10) States that the WARN Act does not apply to employees who are employed in seasonal employment where the employees were hired with the understanding that their employment was seasonal and temporary. (Labor Code §1400)

This bill:

1) Defines the following terms:

a) "Call Center" means a facility or other operation where workers, as their primary function, receive telephone calls or other electronic communication for the purpose of providing customer service or other related functions.

b) "Call Center Employer" means an employer of a covered establishment, as defined, who operates a call center.

c) *For the purposes of Article 2 of AB 1601:* "Relocation of a Call Center" includes when the employer intends to move its call center, or one or more facilities or operating units within a call center comprising at least 30 percent of the call center's or operating unit's total volume when measured against the average call volume for the previous 12 months, or substantially similar operations to a foreign country.

2) Requires an employer notice of relocation of a call center under Labor Code Section 1401 to contain "This notice is for the relocation of a call center".

3) Requires EDD to compile and publish a list of call center employers that have given notice described above.

4) Requires that violations of the above updated notice requirements be enforced through the provisions and remedies that apply to Labor Code Section 1401. However, an employer that violates Section 1410 is not necessarily guilty of a violation of Section 1401 for the same set of facts.

5) Prohibits an employer who appears on the list of employers who have given relocation notice from being awarded any direct or indirect state grants, or state-guaranteed loans, for a period of five years, beginning on the date the list is published. Further prohibits such an employer from claiming a tax credit for five taxable years, beginning on the date the list was published. A relevant state agency may waive this ineligibility with good cause.

   a) A state agency may waive the ineligibility of an employer after receiving a written request from the employer and consulting with the commissioner.

6) Clarifies that this bill should not be construed to permit withholding or denial of payments, compensation, or benefits under any other state law to workers employed by employers who relocate, including unemployment compensation, disability payments, or worker retraining funds.

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

According to the Senate Appropriations Committee:

- The Department of Industrial Relations would likely incur costs, minimally in the hundreds of thousands of dollars annually, to administer the provisions of this bill. (Labor Enforcement and Compliance Fund). Additionally, this bill could result in minor penalty revenue.

- Costs to EDD have yet to be identified.

- To the extent that employers intending to move call centers overseas become ineligible under this bill for state grants, guaranteed loans and tax credits, the state could realize potential cost savings. However, the related enforcement would impact several state agencies, the aggregate cost of which is unknown.

SUPPORT: (Verified 8/26/22)

Communications Workers of America, District 9 (source)
California Alliance for Retired Americans
California Federation of Teachers AFL-CIO
California for Safety and Justice
California Labor Federation, AFL-CIO
California School Employees Association
California State Legislative Board, Smart Transportation Division
United Steelworkers District 12

OPPOSITION: (Verified 8/26/22)

American Property Casualty Insurance Association
California Bankers Association
California Chamber of Commerce
California Mortgage Association
California Mortgage Bankers Association
California Retailers Association
California Taxpayers Association
Civil Justice Association of California
CTIA
Danville Area Chamber of Commerce
Elk Grove Chamber of Commerce
Fresno Chamber of Commerce
Gateway Chambers Alliance
Greater High Desert Chamber of Commerce
Greater Riverside Chambers of Commerce
Hollywood Chamber of Commerce
Lodi Chamber of Commerce
National Federation of Independent Business
National Federation of Independent Business - California
Norwalk Chamber of Commerce
Oceanside Chamber of Commerce
Pleasanton Chamber of Commerce
Rancho Cordova Area Chamber of Commerce

San Mateo Area Chamber of Commerce
Simi Valley Chamber of Commerce
Vision Service Plan
West Ventura County Business Alliance
Yorba Linda Chamber of Commerce

ARGUMENTS IN SUPPORT: The Communication Workers of America, District 9, the sponsor of this bill, writes in support:

> Over the past decade, it has become common practice for profitable corporations to reap the benefits of State subsidies, while at the same time exporting call center jobs overseas. Since 2011, AT&T alone has shut down five call centers in California. These offshoring practices often have devastating impacts on communities as their once good-paying jobs are taken away. Adding insult to injury, these communities' tax dollars are helping to subsidize the very companies that abandoned them. AB 1601 would curtail these destructive corporate practices by denying State grants, State-guaranteed loans, or tax credits for 5 years to any company that relocates 30 percent or more of their call center work to another country.
>
> Call center customer service jobs provide workers with more income stability and job security than they may seem. They are pathways to long-term careers and have kept some workers employed for more than 30 years in that industry. Removing these jobs from California will not only have a negative impact on the state's unemployment rate, but it will also create devastating impacts on communities statewide.

ARGUMENTS IN OPPOSITION: The California Chamber of Commerce writes in opposition:

> AB 1601 will deter companies from creating jobs in California because it improperly penalizes any companies who move California call center operations to a different country. Governor Newsom vetoed this same bill in 2019 for this exact reason. AB 1601 also appears to exceed the boundaries of California's jurisdiction by regulating activities in other countries and, therefore, is likely unlawful.
>
> Assuming the intent of AB 1601 is to discourage call centers from relocating outside of the state, we do not believe that such punitive measures is the proper method. Rather, legislation should be directed at encouraging businesses to stay in this state by alleviating some of the burdens that are forcing them to leave California.

ASSEMBLY FLOOR: 51-19, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Gray, Irwin, Mayes, O'Donnell, Petrie-Norris, Salas, Villapudua

Prepared by: Jake Ferrera / L., P.E. & R. / (916) 651-1556
8/26/22 15:36:10

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

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THIRD READING

Bill No: AB 1608
Author: Gipson (D) and Akilah Weber (D), et al.
Amended: 6/30/22 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 4-1, 6/22/22
AYES: Caballero, Durazo, Hertzberg, Wiener
NOES: Nielsen

SENATE PUBLIC SAFETY COMMITTEE: 4-1, 6/28/22
AYES: Bradford, Kamlager, Skinner, Wiener
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 44-20, 5/16/22 - See last page for vote

SUBJECT: County officers: consolidation of offices

SOURCE: ACLU California Action
California Faculty Association
California Medical Association
Justice for Angelo Quinto! Justice for All! Coalition
Secure Justice
The Miles Hall Foundation
Union of American Physicians and Dentists

DIGEST: This bill removes counties' ability to consolidate the offices of the sheriff and coroner, and specifies that if the offices of sheriff and coroner were consolidated before January 1, 2023, the board of supervisors must separate those offices.

ANALYSIS:

Existing law:

1) Establishes the number, appointment, and election procedures for county officials, including the board of supervisors.

2) Requires, under the California Constitution, all counties to elect a sheriff, district attorney, assessor, and board of supervisors.

3) Establishes in statute additional offices, including the sheriff and coroner.

4) Allows counties to adopt charters to specify their own governance structure, including electing additional supervisors and appointing or electing additional officers.

5) Tasks the coroner with determining the circumstances, cause, and manner of certain deaths, such as deaths that are violent, sudden, or unusual, or potentially stem from criminal activity.

6) Allows the board of supervisors to enact an ordinance to consolidate the sheriff and coroner into a single elected office or abolish the office of coroner and instead appoint a medical examiner to carry out the coroner's duties.

7) Requires a medical examiner to be a licensed physician and surgeon specializing in pathology, and requires any forensic autopsy to determine the cause of death to be done by a medical professional.

8) Prohibits, where an individual dies as a result of law enforcement activity, law enforcement involved in the death from entering the autopsy suite or having any involvement in the examination.

This bill:

1) Eliminates the authority of a county board of supervisors to consolidate the duties of the sheriff with the duties of the coroner.

2) Specifies that if the offices of sheriff and coroner were consolidated before January 1, 2023, the board of supervisors must separate those offices.

3) Provides that for counties with consolidated sheriff-coroners as of January 1, 2023, the separation becomes effective upon the conclusion of the term of the person elected or appointed, on or before January 1, 2023.

Background

Counties fall into two types: "general law" and "charter." General law counties are organized according to the generally applicable laws for county governance established by the Legislature that set the number, appointment, and election procedures for county officials, including the board of supervisors. Charter counties have greater leeway to determine their own governance structure, including to elect additional supervisors and appoint or elect additional officers. A new charter, or the amendment of an existing charter, may be proposed by the Board of Supervisors, a charter commission, or an initiative petition. There are 14 charter counties: Alameda, Butte, El Dorado, Fresno, Los Angeles, Orange, Placer, Sacramento, San Bernardino, San Diego, San Francisco, San Mateo, Santa Clara, and Tehama. Most large counties are charter counties: eight of the ten largest counties by population have adopted charters.

Of California's 58 counties, 48 have consolidated their sheriff and coroner offices. Seven counties have independent medical examiners (Alameda, Los Angeles, San Diego, San Francisco, San Joaquin, Santa Clara, and Ventura). Three counties have separate sheriff and coroner offices (Inyo, Sacramento, and San Mateo).

Comments

1) *Purpose of this bill*. According to the author, "California is one of only three states that still allows counties to combine the offices of coroner and sheriff. Current state law does not require a sheriff to have any medical background or certification to assume the duties of a coroner and as a result has caused a discrepancy in whether a medical diagnosis is valid when there is an officer-related death. Thus, this bill is heavily supported by the medical community and will put California at the forefront and in line with the rest of the states that have already advanced this policy. AB 1608 stems from two bills, AB 1196 (Gipson) and AB 490 (Gipson), which Governor Newsom signed in light of the tragic deaths of George Floyd and Angelo Quinto. As a follow-up to these efforts, AB 1608 will serve as a building block to create complete transparency in determining the cause of death of an individual. Specifically, this bill would separate the duties of the coroner from the duties of the sheriff, strengthening the need for a more transparent and just medical examination process. AB 1608 will provide families with peace of mind that these investigations and processes are done righteously and fairly. This legislation sets a clear pathway in creating a system that prioritizes objectivity, transparency, and accountability – and most importantly justice."

2) *Home rule.* State law allows counties to consolidate various offices, including the sheriff and coroner. However, counties can also decide not to consolidate these positions, or adopt an ordinance to abolish the coroner position and provide instead for the office of an independent medical examiner. Also, with majority voter approval, a county can adopt, amend, or repeal a charter that grants it home rule authority over specified matters, including county office consolidations or creating new offices that state law does not authorize general law counties to create. State law gives counties various options to respond to community concerns regarding the independence of the sheriff and coroner positions. Instead of keeping these decisions at the local level, AB 1608 decides that no county should have a consolidated sheriff-coroner position, except for those with charters that provide for such a consolidation. Should decisions regarding sheriff and coroner offices remain at the local level?

3) *Sure, but will it work?* Separating the duties of the sheriff and coroner into separate offices could create a degree of separation between the sheriff and the coroner who would make decisions about how someone dies at the hands of law enforcement. However, state law does not establish specific eligibility requirements for coroners. While some counties may decide to eliminate their coroner position to create an independent medical examiner's office like the County of San Joaquin, they would have to find resources to hire an experienced physician. Other counties may end up electing a coroner, who could also be a law enforcement official, limiting that degree of separation with the sheriff's office. Could potential conflicts of interest be more directly addressed in other ways that with less of an impact on these counties' governance? For example, would requiring sheriff-coroners to refer out these investigations for independent medical examinations be a better way to address potential conflicts of interest?

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

According to the Senate Appropriations Committee, "Unknown reimbursable local mandate costs, likely in excess of $10 million for one-time local costs to separate sheriff and coroner offices in 48 counties and establish an independent coroner or medical examiner's office, as well as ongoing significant costs to operate those offices separately. Actual state costs would be subject to a determination by the Commission on State Mandates regarding what local expenditures are deemed reimbursable, to the extent a successful reimbursement claim is filed by an affected county. (General Fund)"

SUPPORT: (Verified 8/12/22)

ACLU California Action (co-source)
California Faculty Association (co-source)
California Medical Association (co-source)
Justice for Angelo Quinto! Justice for All! Coalition (co-source)
Secure Justice (co-source)
The Miles Hall Foundation (co-source)
Union of American Physicians and Dentists (co-source)
Alameda County Families Advocating for the Seriously Mentally Ill
Alliance San Diego
American Civil Liberties Union of Northern California
American Federation of State, County and Municipal Employees, AFL-CIO
American Friends Service Committee
Arab Resource and Organizing Center
Asian Pacific American Labor Alliance, AFL-CIO
Asian Prisoner Support Committee
Borderlands for Equity
CalAware
California Coalition for Women Prisoners
California Families United 4 Justice
California Hawaii State Conference of the NAACP
California Immigrant Policy Center
California Innocence Coalition: Northern California Innocence Project, Loyola Project for the Innocent
California News Publishers Association
California Public Defenders Association
Californians for Safety and Justice
Chispa, a Project of Tides Advocacy
City and County of San Francisco Board of Supervisors
City of Berkeley
Coalition for Police Accountability
Communities United for Restorative Youth Justice
Community Legal Services in East Palo Alto
Conference of California Bar Associations
County of Los Angeles
Courage California
Democratic Party of Contra Costa County
Democratic Party of the San Fernando Valley
Democrats of Rossmoor
Ella Baker Center for Human Rights

Faith in Action Bay Area
Faith in Action East Bay
Filipino Community Center
Human Impact Partners
Ice Out of Marin
Immigrant Defense Advocates
Immigrant Legal Resource Center
Indivisible Sacramento
Initiate Justice
Interfaith Movement for Human Integrity
Kehilla Community Synagogue
Legal Services for Prisoners with Children
LiveFree California
Los Angeles County District Attorney's Office
Mighty Vote
National Association of Social Workers, California Chapter
National Lawyers Guild Orange County, California
National Press Photographers Association
National Writers Union LA
Nextgen California
Oakland Privacy
Orange County Rapid Response Network
People's Budget Orange County
Physicians for Human Rights
Radio Television Digital News Association
San Mateo County Participatory Defense
Silicon Valley De-bug
Society of Professional Journalists, Greater Los Angeles Chapter
Stop the Musick Coalition
The Young Women's Freedom Center
Transforming Justice OC
Underground Grit
Underground Scholars Initiative At the University of California, Irvine
Wellstone Democratic Renewal Club
Young Women's Freedom Center

OPPOSITION: (Verified 8/12/22)

California State Association of Counties
California State Coroners' Association
California State Sheriffs' Association

California Statewide Law Enforcement Association
County of Butte
County of Colusa
County of Merced
County of Napa
County of Solano
County of Stanislaus
County of Tuolumne
Peace Officers Research Association of California
Riverside County Sheriff's Office
Riverside Sheriffs' Association
Rural County Representatives of California

ASSEMBLY FLOOR: 44-20, 5/16/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Maienschein, McCarty, Medina, Mullin, O'Donnell, Quirk, Reyes, Luz Rivas, Robert Rivas, Santiago, Stone, Ward, Akilah Weber, Wicks, Wilson, Rendon
NOES: Bigelow, Chen, Choi, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Kiley, Lackey, Mathis, Nguyen, Patterson, Salas, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Cooper, Cunningham, Low, Mayes, Muratsuchi, Nazarian, Petrie-Norris, Quirk-Silva, Ramos, Rodriguez, Blanca Rubio, Ting, Villapudua, Wood

Prepared by: Jonathan Peterson / GOV. & F. / (916) 651-4119
8/13/22 9:49:42

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

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THIRD READING

Bill No: AB 1631
Author: Cervantes (D)
Amended: 4/18/22 in Assembly
Vote: 21

SENATE ELECTIONS & C.A. COMMITTEE: 4-0, 6/13/22
AYES: Newman, Nielsen, Hertzberg, Leyva
NO VOTE RECORDED: Glazer

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 76-0, 5/25/22 - See last page for vote

SUBJECT: Elections: elections officials

SOURCE: Author

DIGEST: This bill requires a county elections official to post on the official's internet website, the public list of all polling places where multilingual poll workers will be present and the language or languages other than English in which they will provide assistance. This bill also requires county elections officials to use the internet in their efforts to recruit multilingual poll workers.

ANALYSIS:

Existing federal law:

1) Requires 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 United States (US) citizens of voting age in that single language group within the jurisdiction meets either specified total number or percentage.

2) Requires a state or political subdivision of a state to provide voting materials in the language of a minority group if all specified criteria apply.

3) 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.

Existing state law:

1) Declares the intent of the Legislature that non-English-speaking citizens, like all other citizens, be encouraged to vote. Therefore, appropriate efforts should be made to minimize obstacles to non-English-speaking citizens voting without assistance.

2) Requires elections officials to make reasonable efforts to recruit poll workers 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.

3) Requires an elections official, at least 14 days before an election, to prepare and make available to the public a list of the precincts to which officials who are fluent in a non-English language and in English were appointed, and the language or languages other than English in which they will provide assistance.

4) Requires a member of the precinct board at each polling place to identify the languages spoken by them, other than English, by wearing a name tag, button, sticker, lanyard, or other mechanism, as determined by the county elections official. Requires the text indicating the language skills of the member of the precinct board to be in the non-English language or languages spoken by that member.

5) Requires county elections officials, within 150 days following each statewide general election, to report to the Secretary of State (SOS) the number of individuals recruited to serve as members of precinct boards, including the number of individuals recruited who are fluent in each language required to be represented under state and federal laws. Requires the SOS to issue uniform standard reporting guidelines and post all county reports received under their internet website within 180 days following each statewide general election.

6) Authorizes an elections official to appoint a pupil, who is a lawful permanent resident of the US, to serve as a precinct board member, as specified.

7) Requires the SOS to establish a Language Accessibility Advisory Committee (LAAC) to advise and assist the SOS with implementation of federal and state laws relating to access to the electoral process by low English proficiency voters, as specified.

This bill:

1) Requires the county elections official to make the list required by existing state law publically available on the county elections official's Internet website.

2) Requires county elections officials to use the Internet in their efforts to recruit multilingual poll workers.

Background

Federal 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."

In 1975, Congress adopted the language minority provisions of Sections 4(f)(4) and 203 of the VRA. Congress extended these provisions in 1982, 1992, and 2006. Sections 4(f)(4) and 203 of the VRA require certain jurisdictions with significant populations of voting age citizens who belong to a language minority community to provide voting materials in a language other than English. These determinations are based on data from the most recent Census.

Specifically, Sections 203 and 4(f)(4) require that when a covered state or political subdivision "[p]rovides registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable minority group as well as in the English language."

In 2013, the US Supreme Court in *Shelby County v. Holder* invalidated the coverage formula that is used to determine the jurisdictions that are subject to the language requirements in Section 4(f)(4) of the VRA, and the VRA has not been amended since that time to create a new coverage formula. Accordingly, while Section 4(f)(4) remains a part of the VRA, no jurisdictions currently are required to provide language assistance under its provisions. The California jurisdictions that likely would have been required to provide language assistance pursuant to Section 4(f)(4) under the existing coverage formula, however, are required to provide language assistance under Section 203 or under state law to at least some precincts within those jurisdictions.

New Census Data. On December 8, 2021, the US Census Bureau released its most recent determination of minority language requirements under Section 203 of the VRA. These determinations, updated every 5 years, affect federal requirements for providing voting materials and other assistance during elections for certain language minority groups within California and across the US. Pursuant to Section 203, California is required to provide bilingual voting assistance to Spanish speakers. Additionally, pursuant to Section 203, 28 of California's 58 counties are individually required to provide bilingual voting assistance to Spanish speakers, and nine counties (Alameda, Contra Costa, Los Angeles, Orange, Sacramento, San Diego, San Francisco, San Mateo, and Santa Clara) are required to provide voting materials in at least one language other than English and Spanish.

Precinct Minority Language Determinations. Existing state law requires the SOS, in each gubernatorial election year, 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.

According to a December 31, 2021 memo from the SOS's office, the SOS contracted with the California Statewide Database (SWDB) at University of California Berkeley to determine which precincts have reached the three percent threshold. The SWDB relied upon a special tabulation provided by the Census Data Review Board to determine which precincts met the three percent threshold for single language minorities. According to the memo, due to stricter Census

Privacy Disclosure Rules, counties saw a major reduction in languages that meet the three percent threshold. The memo encouraged counties to work with their community groups to determine if a need exists for any of the previously covered languages and that to consider the need of their communities before eliminating languages that were previously covered.

On March 1, 2022, the SOS's office subsequently sent out another memo reinstating prior precinct minority language determinations, in addition to the new determinations included in the December 31, 2021 memo. According to the memo, the SOS found sufficient reason to believe that it was necessary to reinstate minority language assistance determinations that were made in 2017 and 2020 in order to ensure that communities have access to language assistance services.

Multilingual Poll Workers and Previous Legislation. In 2003, the Legislature approved and the Governor signed SB 610 (Escutia, Chapter 530, Statutes of 2003), which required the SOS to appoint a task force "to study and recommend uniform guidelines for the training" of election poll workers. The Poll Worker Training Task Force consisted of the chief elections officers of the two largest counties, the two smallest counties, and two other county elections officers selected by the SOS; and included eight other members with elections expertise, including members of community-based organizations and citizens familiar with different ethnic, cultural, and disabled populations.

The standards were revised this year to reflect lessons learned and changes in state law that have taken effect since the original standards were published in 2006. Specifically, the guidelines recommend county elections officials to have a diverse poll worker workforce and to broaden and/or continue their poll worker recruitment efforts to ensure a representative group diverse in age, ethnicity, disabilities, and language fluency.

SOS Report. Additionally, in 2017 the Legislature passed and the Governor signed AB 918 (Bonta, Chapter 845, Statutes of 2017), also known as the California Voting for All Act, which updated the language service requirements for county elections officials and established a new reporting process directing the SOS to collect data related to the recruitment of bilingual poll workers from county officials, among other provisions. Specifically, AB 918 requires county elections officials to report to the SOS the number of individuals recruited to serve as poll workers, including the number of election officials recruited who are fluent in each language required to be represented in accordance with state and federal law. The bill also requires the SOS to issue uniform standard reporting guidelines and to

post all county reports received on their website within 180 days following each statewide general election.

Accordingly, the SOS conducted a survey of county elections officials regarding their recruitment of bilingual poll workers for the November 6, 2018 general election. According to the SOS's Bilingual Poll Worker Recruitment Report issued in May of 2019, 54 of California's 58 counties provided support for 30 different languages through their bilingual poll worker programs. The most widely served language in the state was Spanish and 54 counties reported working to recruit poll workers that were able to assist voters in Spanish. The report states that the next most widely served languages were Filipino (30 counties serving either Tagalog and/or Ilocano), Chinese (19 counties), and Vietnamese and Korean (16 counties for each).

According to the report, the 54 counties that worked to recruit bilingual poll workers responded in the survey that they had commitments from a reported 28,254 bilingual poll workers and of that approximately 22,823 poll workers reported for their service on Election Day which resulted in nearly 81% of recruits completing their service across all languages.

Counties were also asked to provide information regarding some of the different methods they used to recruit bilingual poll workers. Under current law, county elections officials are permitted to recruit students and non-voters to serve as poll workers in order to recruit additional bilingual poll workers. Accordingly, the report states that counties reported that 984 legal permanent residents were recruited to provide bilingual support at polling places across the state and that 5,531 student poll workers were recruited to act as bilingual poll workers. Additionally, at least 11,486 poll workers were recruited through other county efforts or programs. Some of these programs include recruitment of county workers from other departments, targeting college campuses, and paying extra help workers to serve as bilingual support.

Finally, the report states that under advisement from the LAAC, the SOS survey included the opportunity for counties to provide details regarding any technological solutions that were deployed to provide language support. The report states that at least 18 county officials reported using telephonic translations technology to provide additional language support. Most of these technological solutions involve 3-party telephone calls, though some of the cutting-edge translations technologies take advantage of applications like FaceTime to allow video enabled translations calls.

Comments

1) According to the author, AB 1631 will help improve the accessibility of the ballot to California voters who speak a language other than English by requiring that this list of precincts be posted online at each county registrar's website. Requiring this information to be posted online will also help bring our elections laws up to date with our modern, internet-driven world. This bill is but one part of a much larger effort to improve the accessibility of our elections systems for voters who do not speak English. I look forward to continuing to work on this larger project of reforms in the coming years.

Related/Prior Legislation

SB 1131 (Newman, 2022) requires a county elections official, upon application of an election worker, to make confidential that worker's residence address, telephone number, and email address appearing on the affidavit of registration, and prohibits the names of precinct board members from being listed when posting information about precinct board members at polling places, as specified.

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

According to the Senate Appropriations Committee, by requiring county elections officials to post specified information to their internet sites, this bill creates a state-mandated local program. To the extent the Commission on State Mandates determines that the provisions of this bill create a new program or impose a higher level of service on local agencies, local agencies could claim reimbursement of those costs (General Fund). The magnitude is unknown, but likely in the hundreds of thousands of dollars.

SUPPORT: (Verified 8/12/22)

Asian Americans Advancing Justice - California
California Association of Nonprofits
California Latino Legislative Caucus
California Pan-Ethnic Health Network

OPPOSITION: (Verified 8/12/22)

None received

ASSEMBLY FLOOR: 76-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Karen French / E. & C.A. / (916) 651-4106
8/13/22 16:24:01

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

SENATE RULES COMMITTEE AB 1654
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THIRD READING

Bill No: AB 1654
Author: Robert Rivas (D)
Amended: 8/24/22 in Senate
Vote: 27

SENATE HOUSING COMMITTEE: 9-0, 6/13/22
AYES: Wiener, Bates, Caballero, Cortese, McGuire, Ochoa Bogh, Skinner, Umberg, Wieckowski

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/22/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 74-0, 5/23/22 - See last page for vote

SUBJECT: Low-income housing: insurance tax: income tax: credits: farmworker housing

SOURCE: California Coalition for Rural Housing
California Rural Legal Assistance Foundation

DIGEST: This bill increases the set-aside of the low income housing tax credits (LIHTC), authorized in the state budget each year, for farmworker housing projects and requires the Department of Housing and Community Development (HCD) to create a comprehensive strategy to address farmworker housing needs in the state.

Senate Floor Amendments of 8/24/22 grant HCD an additional six months to commission the statewide farmworker housing strategy, make technical clarifying changes, and resolve chaptering conflicts with AB 1288 (Quirk Silva).

ANALYSIS:

Existing law:

1) Provides that a low-income housing development that is a new building and is receiving 9% federal Low-Income Housing Tax Credits (LIHTCs) is eligible to receive state LIHTC over four years of 30% of the eligible basis of the building.

2) Provides that a low-income housing development that is a new building that is receiving federal LIHTC and is "at risk of conversion" to market rate is eligible to receive state LIHTC over four years of 13% of the eligible basis of the building.

3) Provides, for 2020 and 2021 calendar years, that up to $500 million may be allocated to 4% tax credit projects pursuant to an authorization in the annual budget or related legislation.

4) Sets-aside $500,000 per calendar year for projects to provide farmworker housing, as defined.

This bill:

1) Requires, beginning in 2024 through 2034, that $25 million or 5% of the amount available in the state budget each year for the LIHTC, whichever is less, be set aside for projects that provide farmworker housing.

2) Requires that any farmworker LIHTC following the conclusion of a funding round shall roll over to consecutive funding rounds.

3) Provides that beginning in 2035 and every year thereafter, the amount of LIHTC set aside for farmworker housing will be determined by the Legislature upon consideration of a comprehensive strategy developed by HCD.

4) Requires HCD, on or before December 1, 2023, to commission a statewide study of farmworker housing conditions, needs, and solutions to inform a comprehensive strategy for meeting the housing needs of the state's farmworkers.

5) Requires the study to include an analysis and recommendations on the following factors related to the supply of housing affordable and accessible to farmworkers and their families:

    a) A demographic survey and analysis of farmworker households in California, including a survey of a representative sample of farmworkers to assess the

needs, barriers, and proposed solutions to the farmworker housing crisis from the perspective of impacted farmworkers;

b) An analysis of the unmet need for housing for farmworkers, including migrant households;

c) An analysis of existing housing conditions for farmworkers, including, but not limited to, permanent and temporary rental housing in the private market, owner-occupied housing, deed-restricted affordable rental housing, employer-provided housing, generational wealth opportunities, and state-owned migrant housing;

d) An analysis of statewide and regional trends in housing demand among farmworkers, including the demand for specified housing types;

e) An analysis of best practices to increase input from farmworkers and employers on the housing needs in their specific communities;

f) Governmental and nongovernmental barriers to the production of housing to meet the needs of farmworkers, including, but not limited to, the availability of financing, local land use controls, and the availability of suitable land;

g) Any additional analysis, research, or surveys relevant to analyzing the need for housing for farmworkers; and

h) Recommendations to address gaps in the supply of housing for farmworkers.

6) Allows the author of the study to subcontract with other qualified entities as necessary to obtain data described to complete the report.

7) Requires HCD, no later than January 1, 2026, to develop a comprehensive strategy to substantially improve policy, funding, and implementation of farmworker housing production in California to adequately address the size and scope of the problems identified in the study, to inform the next update to the California Statewide Housing Plan.

8) Requires HCD evaluate whether an update of this strategy is necessary and may in its discretion update and revise the strategy in regular intervals as determined by HCD. No later than January 1, 2027, HCD shall submit the strategy to the Legislature.

9) Resolves chaptering conflicts with AB 1288 (Quirk Silva).

Background

Federal LIHTC program. The LIHTC is an indirect federal subsidy developed in 1986 to incentivize the private development of affordable rental housing for low-income households. The federal LIHTC program enables low-income housing sponsors and developers to raise project equity through the allocation of tax benefits to investors. The California Tax Credit Allocation Committee (TCAC) administers the program and awards credits to qualified developers who can then sell those credits to private investors who use the credits to reduce their federal tax liability. The developer in turn invests the capital into the affordable housing project.

Two types of federal tax credits are available: the 9% and 4% credits. These terms refer to the approximate percentage of a project's "eligible basis" a taxpayer may deduct from their annual federal tax liability in each year for 10 years. "Eligible basis" means the cost of development excluding land, transaction costs, and costs incurred for work outside the property boundary. For projects that are not financed with a federal subsidy, the applicable rate is 9%. For projects that are federally subsidized (including projects financed more than 50% with tax-exempt bonds), the applicable rate is 4%. Although the credits are known as the "9% and 4% credits," the actual tax rates fluctuate every month, based on the determination made by the Internal Revenue Service on a monthly basis. Generally, the 9% tax credit amounts to 70% of a taxpayer's eligible basis and the 4% tax credit amounts to 30% of a taxpayer's eligible basis, spread over a 10-year period.

Each year, the federal government allocates funding to the states for LIHTCs on the basis of a per-resident formula. In California, TCAC is the entity that reviews proposals submitted by developers and selects projects based on a variety of prescribed criteria. Only rental housing buildings, which are either undergoing rehabilitation or newly constructed, are eligible for the LIHTC programs. In addition, the qualified low-income housing projects must comply with both rent and income restrictions.

Each state receives an annual ceiling of 9% federal tax credits and they are oversubscribed by a 3:1 ratio. Unlike 9% LIHTC, federal 4% tax credits are not capped; however, they must be used in conjunction with tax-exempt private activity mortgage revenue bonds, which are capped and are administered by the CDLAC. In 2020, the state ceiling for private activity bonds was set at $4.1 billion. The value of the 4% tax credits is less than half of the 9% tax credits and, as a result, 4% federal credits are generally used in conjunction with another funding source, like state housing bonds or local funding sources.

State LIHTC program. In 1987, the Legislature authorized a state LIHTC program to augment the federal tax credit program. State tax credits can only be awarded to projects that have also received, or are concurrently receiving, an allocation of the federal LIHTCs. The amount of state LIHTC that may be annually allocated by the TCAC is limited to $70 million, adjusted for inflation. In 2020, the total credit amount available for allocation was about $100 million plus any unused or returned credit allocations from previous years. Current state tax law generally conforms to federal law with respect to the LIHTC, except that it is limited to projects located in California.

Combining federal 9% credits (which amounts to roughly 70%) with state credits (which amounts to 30%) generally equals 100% of a project's eligible basis. Combining federal 4% credits (which amounts to roughly 30%) with state credits (which amounts to 13%), only results in 43% of a project's eligible basis.

Farmworker tax credit set-aside. The LIHTC program provides up to $500,000 for farmworker housing projects. While the overall program has become competitive in recent years, historically, the number of farmworker housing projects accessing the LIHTC program is low. In 2017, AB 571 (E. Garcia, Chapter 372) made several changes to the farmworker housing tax credit to make the projects more competitive. Changes included allowing projects to offer 50% of the units to non-farmworker households if they meet the income requirements. In addition, AB 571 increased the amount of credits that farmworker tax credit projects could receive by allowing farmworker housing projects to qualify for a 30% boost in federal credits.

Comments

1) *Author's statement.* According to the author, "AB 1654 will require the California Department of Housing and Community Development (HCD) to commission a statewide study on the lack of affordable and accessible farmworker housing. HCD will contract with trusted messengers (such as local non-profits) in farmworker communities to conduct this study. HCD will then use that analysis of the barriers, unmet needs, existing housing conditions, and trends in agricultural employment statewide and regionally to improve policy and potentially increase funding for farmworker housing production. Using the study and its recommendations, HCD will develop a comprehensive strategy to address the lack of farmworker housing and the existing barriers that prevent farmworkers from obtaining housing for themselves and their families. Meanwhile, AB 1654 will also create a minimum, annual set-aside of dedicated tax credits—$25 million or 5% of all affordable housing tax credits, whichever

is less, for ten years—for farmworker housing. Most state programs that include a set-aside for housing in rural areas already allow 10% or more for those programs. AB 1654 will simply establish a floor for farmworker housing funds. After ten years, the Legislature may adjust this amount as necessary, per the recommendations of the farmworker housing study. Together, these important measures will put California on a path to addressing our farmworker housing shortage and ensuring decent living conditions for all farmworkers."

2) *Study and Comprehensive Strategy.* HCD recently published the Statewide Housing Plan laying out a 10-year plan detailing reasons to respond to the housing affordability crisis, what we have done so far, what needs to be done going forward, and how to track progress. The plan does not include specific strategies to address the challenges facing farmworkers and their families. This bill requires HCD to commission a study to determine what barriers exist for increasing the supply of farmworker housing on or before December 1, 2023. HCD would use that study to develop a comprehensive strategy, by January 1, 2026, to substantially improve policy, funding, and implementation of farmworker housing production in California. This bill requires HCD to use that strategy to inform the next update of the Statewide Housing Plan, and conduct an updated strategy at its discretion.

3) *Senate Appropriations Amendments.* Author's amendments taken in Senate Appropriations Committee provide that any farmworker housing tax credits left over from one funding round may roll over to consecutive funding rounds, and make other technical changes.

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

According to the Senate Appropriations Committee:

- HCD estimates one-time contract costs of approximately $400,000 to conduct a specified statewide study of farmworker conditions, needs, and solutions, and assist in the development of a comprehensive strategy. HCD would incur an additional $250,000 in contract every five years thereafter to update the study and strategy. (General Fund)

- HCD estimates ongoing costs of approximately $194,000 annually for 1.0 PY of staff to hire and oversee the consultant contract, develop the report, incorporate strategies into the Statewide Housing Plan, ensure recommendations are implemented across various programs, and update the study, strategy, and report every five years. (General Fund)

- Unknown annual cost pressures to provide additional General Fund augmentations to the LIHTC program, to the extent this bill results in a significant increase in LIHTC allocations for farmworker housing projects that would otherwise be used for other affordable housing projects. As noted below, recent budget actions have provided an additional $500 million each year to augment the program, which remains oversubscribed. Staff notes, however, that this bill provides that amounts that are not allocated for farmworker projects within three years would revert to the larger pot of credits for general allocations.

- TCAC indicates that costs to increase the set aside for farmworker housing projects would be minor and absorbable.

SUPPORT: (Verified 8/23/22)

California Coalition for Rural Housing (co-source)
California Rural Legal Assistance Foundation (co-source)
Burbank Housing
Cabrillo Economic Development Corporation
California Housing Partnership Corporation
City of San Juan Bautista
Community Housing Improvement Program
County of Monterey
County of Riverside
Housing California
Mutual Housing California
People's Self-Help Housing Corporation
Public Interest Law Project
Rural Community Assistance Corporation
San Joaquin Valley Housing Collaborative
Self Help Enterprises
Sierra Business Council
Valley Restart Shelter

OPPOSITION: (Verified 8/23/22)

None received

ASSEMBLY FLOOR: 74-0, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong,

Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Berman, Mia Bonta, O'Donnell, Blanca Rubio

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
8/26/22 15:36:10

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1655
Author: Jones-Sawyer (D), Mia Bonta (D) and Akilah Weber (D), et al.
Amended: 8/22/22 in Senate
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 14-0, 6/14/22
AYES: Dodd, Nielsen, Allen, Becker, Borgeas, Bradford, Hertzberg, Hueso, Jones, Kamlager, Melendez, Portantino, Roth, Wilk
NO VOTE RECORDED: Glazer

SENATE EDUCATION COMMITTEE: 6-0, 6/29/22
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, McGuire, Pan
NO VOTE RECORDED: Glazer

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 75-0, 5/26/22 - See last page for vote

SUBJECT: State holidays: Juneteenth

SOURCE: California Federation of Teachers
California Hawaii State Conference NAACP
California School Employees Association

DIGEST: This bill adds June 19, known as "Juneteenth," to the list of state holidays and authorizes state employees to elect to take time off with pay in recognition of Juneteenth, as specified.

Senate Floor Amendments of 8/22/22 add chaptering-out language with AB 1801 (Nazarian) and AB 2596 (Low).

ANALYSIS:

Existing law:

1) Recognizes various state holidays including:
   a) January 1st (New Year);
   b) Third Monday in January (Dr. Martin Luther King, Jr. Day);
   c) February 12th (Lincoln Day);
   d) Third Monday in February (Washington Day);
   e) March 31st (Cesar Chavez Day);
   f) Last Monday in May (Memorial Day);
   g) July 4th;
   h) September 9 (Admission day);
   i) Fourth Friday in September (Native American Day);
   j) Second Monday in October (Columbus Day);
   k) November 11th (Veterans Day);
   l) December 25th;
   m) Good Friday from 12 noon until 3 p.m.

2) Requires the Governor to proclaim the third Saturday in June of each year to be known as "Juneteenth National Freedom Day: A Day of Observance," and urge all Californians to honor and reflect on the significant roles African Americans have played in U.S. history.

3) Specifies that if the above holidays are in conflict with the provisions of a memorandum of understanding, the memorandum of understanding shall be controlling without further legislative action.

4) Specifies that the above holidays, except for "Cesar Chavez Day" and "Dr. Martin Luther King, Jr. Day," shall not apply to a city, county, or district unless made applicable by charter, or by ordinance or resolution of the governing body.

5) Authorizes a state employee, as defined, to elect to receive eight hours of holiday credit for the fourth Friday in September, known as "Native American Day," in lieu of receiving eight hours of personal holiday credit, as specified.

6) Authorizes an employee in State Bargaining Unit 5, to elect to use eight hours of vacation, annual leave, or compensating time off consistent with departmental operational needs and collective bargaining agreements for the fourth Friday in September, known as "Native American Day.:"

7) Designates holidays on which community colleges and public schools are required to close, including days appointed by the President.

This bill:

1) Adds June 19, known as "Juneteenth, to the list of state holidays.

2) Authorizes a state employee, as defined, to elect to receive eight hours of holiday credit for June 19, known as "Juneteenth," in lieu of receiving eight hours of personal holiday credit, as defined.

3) Authorizes an employee in State Bargaining Unit 5 to elect to use eight hours of vacation, annual leave, or compensating time off consistent with departmental operational needs and collective bargaining agreements for June 19, known as "Juneteenth."

4) Specifies that holidays created by federal legislation signed by the President are considered days appointed as holidays, as specified.

5) Makes corresponding, conforming, and technical changes to existing law.

Comments

Purpose of the Bill. According to the author's office, "this is a significant milestone for African Americans, to have a date recognized by our state that is celebrated by all Californians. AB 1655 is an inclusive act marking a key point in our nation's history – one we should never forget or ignore, and one that correctly balances the American scale of freedom from 3/5ths to a whole."

History of Juneteenth. On June 19, 1865, about two months after the Confederate general Robert E. Lee surrendered at Appomattox Court House, Virginia, Gordon Granger, a Union General, arrived in Galveston, Texas, to inform enslaved Blacks of their freedom and that the Civil War had ended. General Granger's announcement put into effect the Emancipation Proclamation, which had been issued more than two and a half years earlier on January 1, 1863, by President Abraham Lincoln.

The holiday received its name by combining June and 19. Throughout history, Juneteenth has been known by many names: Jubilee Day, Emancipation Day, Freedom Day, and Black Independence Day. Juneteenth symbolizes freedom, celebrates the abolishment of slavery, and reminds all Americans of the significant contributions of African Americans within society. The day is often celebrated by praying and bringing families together.

On January 1, 1980, Juneteenth became an official state holiday in Texas due to the efforts of former Texas House of Representatives member Al Edwards. Since then, Rep. Edwards has actively sought to spread the observance of Juneteenth across the country. As of January 2022, eight additional states (Illinois, Massachusetts, New Jersey, New York, Oregon, Pennsylvania, Virginia and Washington) have adopted Juneteenth as a paid state holiday. On June 19, 2021, President Joe Biden signed legislation establishing June 19 as Juneteenth National Independence Day and a United States federal holiday.

Existing state law requires the Governor to proclaim the third Saturday in June of each year to be known as "Juneteenth National Freedom Day: A Day of Observance," and urge all Californians to honor and reflect on the significant roles African Americans have played in U.S. history.

Unpaid/Paid holidays. California law does not require a private employer to provide its employees with paid holidays, that it closes its business on any holiday, or that employees be given the day off for any particular holiday. If an employer closes its business on holidays and gives its employees time off from work with pay, that occurred pursuant to a policy or practice adopted by the employer, pursuant to the terms of a collective bargaining agreement, or pursuant to the terms of an employment agreement between the employer and employee, as there is nothing in law that requires such a practice.

At the local level, cities have the liberty to specify by charter, ordinance or resolution what paid holidays the city will provide to its city employees. Similarly, most state workers are bound by the memorandum of understanding that they have negotiated with the Governor.

For all other state employees, they are entitled to the following holidays: January 1, the third Monday in January, the third Monday in February, March 31, the last Monday in May, July 4, the first Monday in September, November 11, Thanksgiving Day, the day after Thanksgiving, December 25, a personal holiday after six months of work, and every day appointed by the Governor for a public fast, thanksgiving, or holiday.

This bill adds “Juneteenth” to the list of state holidays and authorizes state employees to elect to take time off with pay in recognition of Juneteenth, as specified.

Related/Prior Legislation

AB 1741 (Low, Chapter 41, Statutes of 2022) required the Governor to annually proclaim November 20 as "Transgender Day of Remembrance."

AB 1801 (Nazarian, 2022) adds April 24, known as "Genocide Remembrance Day," to the list of state holidays and authorize community colleges and public schools to close on April 24, known as "Genocide Remembrance Day," as specified. Additionally, the bill authorizes state employees to elect to take time off with pay in recognition of "Genocide Remembrance Day," as specified. (Pending on the Senate Floor)

AB 1872 (Low, 2022) makes the day of statewide general elections even-numbered years a state holiday, and eliminates Washington day as a holiday in those years. (Held in the Assembly Appropriations Suspense File)

AB 2596 (Low, 2022) repeals provisions requiring the Governor to annually proclaim the Lunar New year, and instead recognized the Lunar Year as a state holiday and authorizes state employees, with specified exceptions, to elect to receive eight hours of holiday credit for the Lunar New Year in lieu of receiving eight hours of personal holiday credit, as specified. (Pending on the Senate Floor)

SB 383 (Stone, 2017) would have required state employees be given time off with pay for the day after Thanksgiving, or for Yom Kippur, whichever the day is chosen by the employee and recognizes Yom Kippur as a state holiday. (Failed Passage in the Senate Governmental Organization Committee)

AB 674 (Low, 2017) would have made the first Tuesday after the first Monday in November of each year in which a statewide or national election is held as a state holiday. (Held in the Assembly Appropriations Suspense File)

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

According to the Senate Appropriations Committee, unknown potentially significant General Fund cost pressures, likely in the millions of dollars, to create another negotiable paid holiday for eligible state workers.

Unknown, potentially significant reimbursable mandate costs to the extent school districts need to adjust their calendars and summer work hours, resulting in local bargaining implications for their classified employees. This assumes school districts would need to adjust their school calendars and ensure minimum days of instruction. Staff notes that most school years conclude before June 19, however some schools go beyond June 19 for their regular school year. To address learning

loss and other significant needs, these schools have increased summer programs. The associated costs are unknown.

Unknown fiscal impact to the courts. The Judicial Council notes that by adding a new state holiday, the bill also creates a new judicial holiday, which adds a day that the courts will be closed. This may exacerbate court backlogs, however the associated costs are indeterminate.

SUPPORT: (Verified 8/11/22)

California Federation of Teachers (co-source)
California Hawaii State Conference NAACP (co-source)
California School Employees Association (co-source)
All of Us or None Los Angeles
Alliance for Californians for Community Empowerment
American Federation of State, County, and Municipal Employees, AFL-CIO
Aouon Orange County
Brotherhood Crusade
Cal State Student Association
California Alliance for Retired Americans
California Conference of Machinists
California County Superintendent Educational Services Association
California Employment Lawyers Association
California Faculty Association
California Federation of Teachers AFL-CIO
California Hawaii State Conference of NAACP
California Nurses Association
California School Employees Association
California State Council of Service Employees International Union, California
California State University Employees Union
California Teachers Association
California Teamsters Public Affairs Council
CaliforniaHealth+ Advocates
Californians for Safety and Justice
Californians United for a Responsible Budget
Children's Law Center of California
City of Oakland
City of San Diego
Dolores Huerta Foundation
Engineers and Scientist of California, IFPTE Local 20, AFL-CIO
Equal Rights Advocates

Fresno Metro Black Chamber of Commerce
Initiate Justice
John Burton Advocates for Youth
Judicial Council of California
Khmer Girls in Action
Kipp Social Public Schools
Long Beach Community College District
Los Angeles Community College District
Los Angeles County Democratic Party
New Way of Life Re-entry Project
NextGen California
Pasadena Area Community College District
Rubicon Programs
Santa Monica College
Service Employees International Union, Local 1000
Student Senate for California Community Colleges
Timedone
UDW/AFSCME Local 3930
Unite Here International Union, AFL-CIO
United Teachers Los Angeles
Utility Workers Union of American, AFL-CIO
West Basin Municipal Water District
Young Women's Freedom Center

OPPOSITION: (Verified 8/11/22)

National Juneteenth Observance Foundation - California

ARGUMENTS IN SUPPORT: According to the Cal State Student Association, "on June 19, 1865, commonly referred to as Juneteenth, word of freedom reached the last enslaved black people in Galveston Bay, Texas, the last confederate state with slavery in place. After two long years, Major General Gordon Granger of the Union Army delivery news of the Emancipation Proclamation issued by President Abraham Lincoln in 1863. This day would make the end of enslavement for over three million black Americans. AB 1655 will cement a vital moment in this nation's history and serve as an equally vital lesson, that the pursuit of justice must be tempered with full knowledge of prior injustices. Without that knowledge, efforts towards progress are doomed to fail."

ARGUMENTS IN OPPOSSITION: According to the National Juneteenth Observance Foundation - California, "AB 1655 as currently amended to reflect an

'optional' holiday bill clearly is not in alignment with the 'official' Federal Holiday. An 'optional' California Juneteenth Holiday may cause more harm than good."

ASSEMBLY FLOOR: 75-0, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, O'Donnell, Villapudua

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
8/23/22 13:23:22

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

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THIRD READING

Bill No: AB 1656
Author: Aguiar-Curry (D)
Introduced: 1/14/22
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 9-0, 6/6/22
AYES: Roth, Archuleta, Becker, Dodd, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Melendez, Bates, Eggman, Hurtado, Jones

ASSEMBLY FLOOR: 59-1, 4/18/22 - See last page for vote

SUBJECT: Cannabis: industrial hemp

SOURCE: Author

DIGEST: This bill states that the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) does not prohibit a cannabis licensee from manufacturing, distributing, or selling industrial hemp products, as defined in state law and including cannabinoids, extracts, or derivatives of industrial hemp, if the product complies with all applicable state laws and regulations.

ANALYSIS:

Existing federal law:

1) Enacts the 2018 Farm Bill, which removed hemp from the Controlled Substances Act (CSA), which is under the purview of the Drug Enforcement Agency, and put it under the purview of the United States Department of Agriculture (USDA) as an agricultural commodity. The Farm Bill lists hemp as a "covered commodity" under crop insurance and allows the states to regulate the industry. (7 United States Code § 1621 et seq.)

2) Establishes the USDA Final Rule for the Domestic Hemp Production Program to provide regulations for hemp production in the United States. This program provides requirements for maintaining records about the land where hemp is

produced, testing the levels of total delta-9 tetrahydrocannabinol (THC), disposing of non-compliant plants with levels of THC over 0.3%, licensing hemp producers, and ensuring compliance under the new program. (7 Code of Federal Regulations Part 990)

Existing state law:

1) Enacts MAUCRSA to provide for a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of both medicinal and adult-use cannabis and cannabis products. (Business and Professions Code (BPC) §§ 26000 et seq.)

2) Defines "cannabis" as all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, plant seeds, resin extracted from any part of the plant, and any product derived from the plant, seeds, or resin. "Cannabis" does not include mature stalks of the plant, fiber produced from the mature stalks, oil or cake made from the seeds of the plant, or products (except resin) derived from mature stalks of the plant, fiber, oil or cake, or the sterilized seed of the plant. "Cannabis" does not mean "industrial hemp" as defined in the Health and Safety Code § 11018.5. (BPC § 26001 (e)

3) Prohibits the sale of cannabis products that are alcoholic beverages, including an infusion of cannabis or cannabinoids derived from industrial hemp into an alcoholic beverage. (BPC § 26070.2)

4) Defines "industrial hemp" as a crop that is limited to types of the plant Cannabis sativa L. having no more than three-tenths of 1 percent THC contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom. (Health and Safety Code (HSC) § 11018.5(a))

5) Specifies that industrial hemp shall not be subject to the requirements of MAUCRSA. (HSC § 11018.5(b))

6) Establishes provisions for industrial hemp products under the Sherman Food, Drug, and Cosmetic Law administered by the California Department of Public Health (CDPH), under which manufacturers of products containing industrial hemp or hemp products are required to obtain the appropriate registration or licensure for the type of industrial hemp product manufactured and comply with established manufacturing practices. (HSC §§ 111920 et seq.)

7) Provides the California Department of Food and Agriculture (CDFA) with responsibility for administering and enforcing laws governing the growing, cultivating, and distributing of industrial hemp. (Food and Agricultural Code §§ (FAC) 81000 et seq.)

8) Establishes an Industrial Hemp Advisory Board under the CDFA to make recommendations to the Secretary of Food and Agriculture on all matters pertaining to industrial hemp seed law and regulations, enforcement, related annual budgets, and the setting of an appropriate assessment rate necessary for the administration of the law. (FAC § 81001)

9) Allows only approved cultivars to grow industrial hemp, unless when industrial hemp is grown by a registered established agricultural research institution or by a registered hemp breeder developing a new cultivar. (FAC § 81002)

10) Imposes limitations and prohibitions on the growth of industrial hemp, including the restriction that industrial hemp shall not be cultivated on a premises licensed by the Department of Cannabis Control (DCC) to cultivate or process cannabis. Requires each crop of industrial hemp to be tested by a laboratory to determine the THC levels of a random sampling of its dried flowering tops, with exceptions for industrial hemp cultivated by a registered established agricultural research institution or registered hemp breeder, as specified. (FAC § 81006)

This bill states findings and declarations that it is the intent of the Legislature to enhance the viability of cannabis licensees in the legal cannabis marketplace to relieve challenges presented by the illicit market. States that MAUCRSA does not prohibit a cannabis licensee from manufacturing, distributing, or selling industrial hemp products, as defined in the Health and Safety Code § 11018.5, or cannabinoids, extracts, or derivatives from industrial hemp, if the product complies with all applicable state laws and regulations, including those outlined in the Food and Agricultural Code (commencing with § 81000) and the Health and Safety Code (commencing with § 111920).

Background

State Regulation of Cannabis. In 1996, California first legalized cannabis for medical consumption via Proposition 215, also known as the Compassionate Use Act (the Act). Proposition 215 protected qualified patients and primary caregivers from prosecution related to the possession and cultivation of cannabis for medicinal purposes. In 2003, the Legislature authorized the formation of medical

marijuana cooperatives—nonprofit organizations that cultivate and distribute marijuana for medical uses to their members through dispensaries.

In 2015, the Legislature passed the Medical Cannabis Regulation and Safety Act (MCRSA). For the first time, MCRSA established a comprehensive, statewide licensing and regulatory framework for the cultivation, manufacture, transportation, testing, distribution, and sale of medicinal cannabis. Shortly following the passage of MCRSA in November 2016, California voters passed Proposition 64, the "Control, Regulate and Tax Adult Use of Marijuana Act" (Proposition 64), which legalized adult-use cannabis. Less than a year later in June 2017, the California State Legislature passed a budget trailer bill, SB 94 (Senate Budget and Fiscal Review Committee, Chapter 27, Statutes of 2017), that integrated MCRSA with Proposition 64 to create MAUCRSA, the current regulatory structure for both medicinal and adult-use cannabis. Beginning in 2018, Proposition 64 permitted adults 21 years of age or older can legally grow, possess, and use cannabis for nonmedical purposes, with certain restrictions.

Industrial Hemp in the United States and California. Industrial hemp is produced from the *Cannabis sativa* (*C. sativa*) plant, which is primarily grown for its fiber and oilseed. Industrial hemp has been a fixture of human agriculture for thousands of years and was introduced to North America in the 16th century. Hemp production reached its peak in the United States in the mid-1800s, but decreased as other fiber crops such as cotton increased in popularity. The Marihuana Tax Act of 1938 ended the legal production of hemp in the United States, and hemp was added to Schedule I of the CSA.

In California, SB 566 (Leno, Chapter 398, Statutes of 2013) established the Industrial Hemp Farming Act, which established a regulatory framework for the cultivation and processing of industrial hemp that would go into effect upon legalization by the federal government. SB 566 required growers of industrial hemp for commercial purposes to register with the county agricultural commissioner of the county in which the grower intends to engage in industrial hemp cultivation among various provisions. Several years later, the 2018 Farm Bill removed industrial hemp from the Controlled Substances Act and put it under the purview of the USDA as an agricultural commodity. The Farm Bill lists hemp as a “covered commodity” under crop insurance and allows the states to regulate the industry. Since then, industrial hemp production in the United States has seen a resurgence in the last few years.

By federal and California law, industrial hemp is defined as *C. sativa* plants which have low levels of the THC (under 0.3%), the primary psychoactive component of

medicinal and recreational cannabis, which commonly contains levels ranging from 15-40% THC. *C. sativa* plants grown for commercial purposes found to have THC levels over this limit are required to be destroyed.

CBD and CBD products. In addition to the cultivation of *C. sativa* for industrial hemp fiber and oilseed, *C. sativa* also contains the cannabinoid cannabidiol (CBD). CBD does not produce a feeling of euphoria like THC, and according to the World Health Organization, "In humans, CBD exhibits no effects indicative of any abuse or dependence potential." Upon the legalization of industrial hemp in 2018, CBD products made from hemp became widely available throughout much of the United States. It is important to note that CBD obtained from cannabis plants intended for medicinal or adult-use, and not from industrial hemp, is still federally illegal. In California, CBD obtained from cannabis plants intended for medicinal or adult-use is still regulated through MAUCRSA.

CBD has been demonstrated to alleviate epileptic seizures in patients, and the drug Epidiolex is the first CBD-containing medicine to be approved by the United States Food and Drug Administration for the treatment of epilepsy syndromes. In addition to the role of CBD as an anticonvulsant, studies suggest CBD may reduce anxiety, alleviate insomnia, inhibit inflammatory and neuropathic pain, and assist patients in recovery for substance use disorders. However, more studies are required to verify these findings. Despite these potential therapeutic uses of CBD, there has historically been limited regulation of the rapidly growing CBD market, which has led to concerns regarding the purity and potency of CBD products available to consumers.

In California, AB 45 (Aguiar-Curry, Chapter 576, Statutes of 2021) established a regulatory framework for food, beverage, and cosmetic products containing industrial hemp or cannabinoids (such as CBD), extracts, or derivatives of industrial hemp under the Sherman Food, Drug, and Cosmetic Law. This bill was enacted to clarify and expand the framework under which industrial hemp and CBD derived from industrial hemp can be included in dietary supplements, food, beverages, cosmetics, or pet food. This bill required manufacturers of dietary supplements and food that includes industrial hemp products to register with CDPH and demonstrate that their products meet all state and federal guidelines, including consumer safety standards. In addition, this bill prohibited manufacturers, distributors, or sellers of industrial hemp products from advertising unsubstantiated health-related statements regarding industrial hemp and CBD.

Legal Separation of Industrial Hemp and Cannabis. Supply chains and regulations for industrial hemp and cannabis are kept principally separate in California. DCC

presently mandates that licensed cannabis retailers are prohibited from selling any non-cannabis goods besides cannabis accessories and branded merchandise (§ 15407 of the DCC's regulations), and industrial hemp falls under the category of a "non-cannabis good". In addition, California law stipulates that industrial hemp may not be cultivated on premises licensed by DCC to cultivate or process cannabis. Finally, CBD and CBD products derived from cannabis are regulated quite differently from the same CBD products containing hemp-derived CBD, despite being essentially the same. This bill, in its current form, seeks to clarify that the provisions outlined in the MAUCRSA do not prohibit a cannabis licensee from manufacturing, distributing, or selling industrial hemp products, but does not remove any of the aforementioned separations between industrial hemp and cannabis supply lines and retail.

AB 45 required DCC to prepare a report for the Governor and the Legislature outlining the steps necessary to allow for the incorporation of hemp cannabinoids into the cannabis supply chain by July 1, 2022. The author states they may amend AB 1656 following the receipt of this report in order to take legislative action to enact the upcoming DCC recommendations to integrate hemp-derived cannabinoids, such as CBD, in the cannabis supply chain.

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

SUPPORT: (Verified 6/7/22)

California Cannabis Industry Association
California Hemp Council
Canopy Growth Corporation
Cronos USA Client Services LLC
Good Farmers Great Neighbors
The Parent Company
U.S. Hemp Roundtable

OPPOSITION: (Verified 6/7/22)

None received

ARGUMENTS IN SUPPORT: The California Cannabis Industry Association (CCIA) writes, "…CCIA supports the incorporation of hemp cannabinoids into manufactured cannabis products, the ability of cannabis licensees to also manufacture hemp products within their facilities, and the opportunity to sell hemp products within licensed dispensaries. The licensed cannabis industry and the framework set forth in the MAUCRSA is already well suited to accommodate

hemp products and would benefit from the opportunity to expand product offerings."

Good Farmers Great Neighbors writes, "The State of California represents the largest CBD market in the United States. Despite passage of AB 45 last year, there are still questions about what is legal and who can produce CBD products in the new marketplace. AB 1656 represents a refinement of last year's legislation, AB 45, to further outline a defined and stable regulatory environment for licensed CBD products in the state."

California Hemp Council, Cronos USA Client Services LLC, The Parent Company, and U.S. Hemp Roundtable write that they hope the DCC report will provide reasonable proposals to integrate hemp-derived cannabinoids into the cannabis supply chain, and that AB 1656 will serve as a vehicle to effectuate the intent of this report.

ASSEMBLY FLOOR: 59-1, 4/18/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooper, Daly, Flora, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Voepel
NO VOTE RECORDED: Bigelow, Chen, Choi, Cooley, Cunningham, Megan Dahle, Davies, Fong, Gallagher, Kiley, Mathis, Mayes, Muratsuchi, Nguyen, Patterson, Seyarto, Smith

Prepared by: Hannah Frye / B., P. & E.D. /
6/8/22 13:08:02

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

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THIRD READING

Bill No: AB 1663
Author: Maienschein (D)
Amended: 8/22/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 6/21/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, McGuire, Stern, Wiener

SENATE HUMAN SERVICES COMMITTEE: 5-0, 6/27/22
AYES: Hurtado, Jones, Cortese, Kamlager, Pan

SENATE APPROPRIATONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 75-0, 5/25/22 - See last page for vote

SUBJECT: Protective proceedings

SOURCE: California Advocates for Nursing Home Reform
California Community Living Network
California State Council on Developmental Disabilities
Disability Rights California
Disability Rights Education and Defense Fund
Disability Voices United
Free Britney LA

DIGEST: This bill implements several reforms of the conservatorship system for adults unable to care for their own affairs and codifies requirements for supported decisionmaking as a less restrictive alternative to a conservatorship.

Senate Floor Amendments of 8/22/22 make a number of modifications to the bill's existing changes to the Probate Code conservatorship system and the establishment of a supported decisionmaking framework in response to concerns from the

Director of Developmental Services and the California Health and Human Services Agency. The amendments also make changes to avoid chaptering-out conflicts with AB 2960 (Committee on Judiciary, 2022).

ANALYSIS:

Existing law:

1) Authorizes a court to appoint a conservator of the person or estate of an adult, or both, provided that the adult is unable to provide specified personal needs or substantially unable to manage their own resources or resist fraud or undue influence and the conservatorship is the least restrictive alternative necessary for the protection of the conservatee. A conservatorship continues until the death of the conservatee or an order of the court terminating the conservatorship. (Prob. Code, §§ 1800.3, 1801, 1860.)

2) Requires the court, in the selection of a conservator, to be guided by what appears to be the best interests of the proposed conservatee, and sets forth an order of preference for persons to be appointed based on their relationship to the proposed conservatee. (Prob. Code, § 1812.)

3) Allows the Director of Developmental Services (DDS) be appointed as a guardian or conservator of a developmentally disabled person who is eligible for regional center services or is a patient in any state hospital; while the procedures for the establishment of a conservatorship under the Probate Code generally apply to such an appointment, the order of preferences for the person to be appointed does not. When DDS is appointed as a conservator, the services rendered must be performed through the regional centers or other agencies or individuals designated by the regional centers. (Health & Saf. Code, div. 1, pt. 1, ch. 2, art. 7.5, §§ 416 et seq.)

4) Sets forth the procedures for establishing a conservatorship and appointing a conservator, including the requirements of a petition requesting appointment of a conservator and an investigation by an investigator of the probate court. (Prob. Code, §§ 1821, 1826.)

5) Requires a court to provide all private conservators with written information concerning a conservator's rights, duties, limitations, and responsibilities in materials developed by the Judicial Council. (Prob. Code, § 1835.)

6) Requires a court to periodically review a conservatorship at six-month intervals (subject to appropriation) or, without an appropriation, after the first year and biannually thereafter. (Prob. Code, §§ 1850, 1863.)

7) Authorizes the creation of a limited conservatorship, as an alternative to a full conservatorship when the person's needs do not require a full conservatorship, that allows the conservatee to retain all legal and civil rights except those granted by the court to the limited conservator. A limited conservatorship continues until the death of the limited conservatee, an order of the court terminating the conservatorship, or where the order appointing the limited conservator contained a set termination date. (Prob. Code, §§ 1801(d), 1860.5.)

8) Requires a conservator to accommodate the desires of the conservatee, except to the extent that doing so would violate the conservator's fiduciary duties to the conservatee or impose an unreasonable expense on the conservatorship estate. (Prob. Code, § 2113.)

This bill:

1) Modifies the procedures and requirements for when DDS is appointed as a guardian or conservator for a minor or adult developmentally disabled person, including by requiring DDS to work with regional centers to implement less restrictive alternatives to conservatorships; requiring, by January 1, 2024, DDS to develop guidelines to mitigate conflicts that may arise when a regional center is serving as DDS's designee and is also responsible for service coordination activities for the conservatee; permitting DDS to submit specified preexisting reports in connection with a conservatorship petition if specified conditions are met; and prohibiting, for any conservatorship petition filed on or after January 1, 2023, a regional center from serving as a conservator, though the regional center may act as DDS's designee.

2) Requires Judicial Council, as part of its duty to train court-employed staff and attorneys appointed to represent conservatees and wards and proposed conservatees and wards, to include training on specified less restrictive alternatives to conservatorship, with assistance from stakeholders including the State Council on Developmental Disabilities, DDS, and the California Department of Aging.

3) Requires a court, in determining whether a conservatorship is the least restrictive alternative available and whether to grant or deny a petition for conservatorship, to consider the person's abilities and capacities with current and possible supports, as specified.

4) Provides that if a court becomes aware that a proposed conservatee has a developmental disability, and the proposed conservator is not seeking authority to act under provisions for a person with a major neurocognitive disorder, as

defined, the court must deem the proceeding to be seeking a limited conservatorship.

5) Requires a petition requesting the appointment of a conservator to set forth the less restrictive alternatives to conservatorship that were considered and why those alternatives would not be suitable, and any alternatives tried and details about why they did not meet the proposed conservatee's needs.

6) Expands the courts' duty to provide written information to conservators to apply to private conservators, and requires the written information include additional information relating to conservator's obligations.

7) Requires a court to provide all conservatees, within 30 days of the establishment of the conservatorship and annually thereafter, with specified information written in plain language describing the conservatee's rights within the conservatorship and any rights expressly withheld by the court.

8) Requires the Judicial Council, upon appropriation by the Legislature, to establish a conservatorship alternatives program within each self-help center in every state Superior Court to assist persons inquiring about conservatorships.

9) Requires a court investigator, as part of the annual conservatorship investigation, when possible, to discuss with the conservatee less restrictive alternatives to conservatorship and to report to the court whether the conservatee or conservator wishes to modify or terminate the conservatorship. If the investigator's report indicates that the conservator or conservatee wishes to modify or terminate the conservatorship, the court must consider a prompt modification or termination.

10) Requires a court, when finding by clear and convincing evidence that a conservatee continues to meet the criteria for limited conservatorship so as to avoid terminating the conservatorship, to make its findings on the record.

11) Provides that, if a petition for termination of a conservatorship or limited conservatorship is uncontested and states facts showing that both the conservator and conservatee wish to terminate the conservatorship or limited conservatorship, and the conservatorship is no longer the least restrictive alternative for the conservatee's protection, the court may terminate the conservatorship or limited conservatorship without an evidentiary hearing.

12) Requires the court, upon receipt of a communication from a conservatee that the conservatee wishes to terminate their conservatorship, appoint counsel for the conservatee and set a hearing for the termination of the conservatorship

when either (a) there has not been a hearing for the termination of the conservatorship within the 12 months preceding the communication; or (b) the court believes there is good cause to set a hearing.

13) Requires a conservator, to the greatest extent possible, to support the conservatee to maximize their autonomy, support the conservatee in making decisions, and, on a regular basis, inform the conservatee of decisions made on their behalf. In determining the desires of the conservatee, to consider stated or previously expressed preferences.

14) Adds Division 11 to the Welfare and Institutions Code, establishing supported decisionmaking (SDM) for adults with disabilities, and specifies that the division does not apply to supporters trained pursuant to the CARE Court program (SB 1338, Umberg, 2022).

15) Makes findings and declarations relating to the importance of maintaining the greatest degree of autonomy possible for adults with disabilities and the effectiveness of supported decisionmaking for adults with disabilities.

16) Defines relevant terms, including "adult with a disability," "life decision," "supported decisionmaking," "supported decisionmaking agreement," and "supporter."

17) Provides that a supporter is bound by all existing obligations and prohibitions otherwise applicable by law that protect people with disabilities and the elderly from fraud, abuse, neglect, coercion, or mistreatment, and that the division does not limit a supporter's civil or criminal liability for prohibited conduct against the person with a disability, as specified.

18) Prohibits a person from serving as a supporter in specified circumstances, including when they have been the subject of a prior allegation under the Elder Abuse and Dependent Adult Civil Protection Act or have been found liable for abuse, neglect, mistreatment, coercion, or fraud.

19) Sets forth a supporter's obligations and the restrictions on a supporter, including prohibiting a supporter from participating a life decision in which the supporter has a conflict of interest.

20) Permits an adult with a disability to enter into a written SDM agreement with one or more chosen supporters; the support may include helping the adult with a disability obtain and understand information related to a life decision, communicating the decision to others, and assisting the individual to ensure their preferences and decisions are honored.

21) Provides, as declarative of existing law and notwithstanding any other provision in the new Division, that an adult with a disability may request, and is entitled to have present, one or more other adults, including supporters, in any meeting or communication. A third party may not refuse the presence of another adult unless they reasonably believe the other adult is engaging in fraud, coercion, or abuse that the third party is required to report pursuant to the Elder Abuse and Dependent Adult Civil Protection Act.

22) Requires a written SDM agreement to be written in plain language, include specified information and be signed by the supporter and supported person in the presence of two disinterested witnesses or a notary public. The written agreement must be reviewed by all supporters and the adult with a disability every two years and updated as needed.

23) Provides that a SDM agreement is effective until it is terminated by any of the parties, the terms of the agreement, the death of the adult with a disability, or all of the supporters are no longer eligible to serve, and that any party may choose to terminate their participation at any time.

24) Requires, when the California Health and Human Services Agency develops training materials on SDM, the Agency to consider the needs of underserved individuals, existing SDM materials and practices developed nationwide, and consult with stakeholders.

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

According to the Senate Appropriations Committee, ongoing cost pressures, likely in the tens of millions of dollars to fund SDM-TAP and the conservatorship alternatives program (General Fund).[1]

SUPPORT: (Verified 8/22/22)

California Advocates for Nursing Home Reform (co-source)
California Community Living Network (co-source)
California State Council on Developmental Disabilities (co-source)
Disability Rights California (co-source)
Disability Rights Education and Defense Fund (co-source)
Disability Voices United (co-source)
Free Britney LA (co-source)
AARP California

[1] "SDM-TAP" refers to the Supported Decisionmaking Technical Assistance Program, which was amended out of the bill in the August 22, 2022, amendments.

ACLU California Action
Alzheimer's Association
Autism Society of Los Angeles
Autism Society San Francisco Bay Area
California Elder Justice Coalition
California Foundation for Independent Living Centers
California Public Defenders Association
California Senior Legislature
CalTASH
Choice in Aging
Club21 Learning and Resource Center
Consumer Attorneys of California
Exceptional Rights Advocacy
Integrated Community Collaborative
Long Beach Gray Panthers
National Association of Social Workers – California Chapter
National Council on Severe Autism
PRAGNYA
One individual

OPPOSITION: (Verified 8/22/22)

Autism Society San Francisco Bay Area
National Council on Severe Autism
The Arc and United Cerebral Palsy California Collaboration

ARGUMENTS IN SUPPORT: According to Disability Voices United, a co-sponsor of the bill:

> AB 1663 will reform and improve California's probate conservatorship system in four important ways to help maintain choice and control over their lives. First, the bill would help reduce probate conservatorships by recognizing less restrictive alternatives, such as Supported Decision-Making, which provides people with disabilities and older adults a way to understand, make, and communicate their own decisions with the help of their chosen supporters. Second, the bill would make probate conservatorships a last resort. Third, the bill makes it easier to end conservatorships. Finally, AB 1663 would ensure that conservatees have a level of choice in decisions made regarding their lives.

ARGUMENTS IN OPPOSITION: According to Autism Society San Francisco Bay Area, writing in opposition:

> The sum of $10 million should be spent on bolstering our underfunded, heavily burdened conservatorship system—not on the development of a supposedly new alternative, one that is *already* authorized under law. Supported decisionmaking is already available to any person who feel a need for help in making decisions: a new bureaucracy to "formalize" it does not advance the most pressing needs of adults with [autism and intellectual and developmental disabilities (I/DD)]. While Supported Decisionmaking is popular among ideological advocates, there is no clamor for it, at all, in our autism and I/DD communities. AB 1663 does nothing to address the very real problems we face in the conservatorship system:
>
> - The need for better training and support for conservators
> - The need for a simple, timely, low-cost path for appointment of successor conservators
> - The need for increased levels of court supervision, particularly after parents pass away
> - The systematic underfunding of the heavily overburdened conservatorship system

ASSEMBLY FLOOR: 75-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, O'Donnell, Patterson

Prepared by: Allison Meredith / JUD. / (916) 651-4113
8/23/22 13:23:12

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

SENATE RULES COMMITTEE AB 1667
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1667
Author: Cooper (D)
Amended: 8/25/22 in Senate
Vote: 27

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-0, 6/22/22
AYES: Cortese, Durazo, Laird, Newman
NO VOTE RECORDED: Ochoa Bogh

SENATE JUDICIARY COMMITTEE: 10-0, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, Jones, McGuire, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 75-0, 5/26/22 - See last page for vote

SUBJECT: State Teachers' Retirement System: administration

SOURCE: California County Superintendents Educational Services Association
California Retired Teachers Association
California Teachers Association

DIGEST: This bill alters the manner in which the California State Teachers' Retirement System (CalSTRS) can audit public school employers, employees, and retirees related to the reporting of creditable service and compensation and limit CalSTRS' ability to collect pension overpayments arising from errors in reporting disallowed compensation.

Senate Floor Amendments of 8/25/22:

1) Allocate costs, beginning July 1, 2024, of CalSTRS pension overpayments resulting from reporting errors based on who caused the error, as specified, including providing that CalSTRS shall recover costs deemed its errors, with

interest as specified, from the state through a continuous General Fund appropriation to recover 85% of the pension overpayments and directly from all school employers for the other 15%.

2) Limit the amount by which CalSTRS can reduce a retired teacher's (or their beneficiary's) monthly allowance by no more than 15 percent if the retiree or an individual on their behalf, as specified, caused the error due to inaccurate information or not submitting information.

3) Delete existing law authorizing CalSTRS to recover overpayments from reported information CalSTRS determines was designed to enhance a pension.

4) Delete existing law that requires the school employer to pay to CalSTRS the differential from the total overpayment and the retired teacher's recalculated pension, as specified.

5) Clarify that a CalSTRS advisory letter's shield from liability for employers and members applies only to an error made by an employer on reliance of the letter or on behalf of a CalSTRS member to whom the advisory letter expressly relates. If the error meets those conditions, the resulting overpayment shall be deemed a CalSTRS error and shall be recovered, with interest as specified, under the 85% State GF / 15% All School Employer ratio described above.

6) Provide that when a public agency or member waives their right to an administrative hearing regarding a CalSTRS audit, as specified, the audit becomes CalSTRS' final determination *as to that public agency or that CalSTRS member.*

7) Clarify that with respect to the bill's requirements that CalSTRS notify affected members' unions of its audit activities and the audit results and provide the union an opportunity to respond, as specified, the bill does not confer additional due process rights to the union.

ANALYSIS:

Existing law:

1) Establishes the E. Richard Barnes Act that, together with certain other areas within the Education Code administered by CalSTRS, is known as the Teachers' Retirement Law (TRL). (Education Code § 22000)

2) Establishes that the purpose of CalSTRS is to provide a financially sound plan for the retirement, with adequate retirement allowances, of teachers in the

public schools of this state, teachers in schools supported by this state, and other persons employed in connection with the schools. (ED § 22001)

3) Establishes, pursuant to the constitution, that the retirement board of a public pension or retirement system has plenary authority and fiduciary responsibility for administration of the system, and among other provisions, consistent with the fiduciary responsibilities vested in it, must have the sole and exclusive power to provide for actuarial services in order to assure the competency of the assets of the public pension or retirement system. (Ca. Const., Art XVI, § 17)

4) Provides for a three-year limitation of action relating to adjustments of errors and omissions by or against CalSTRS after which CalSTRS must discharge all obligations to, or on behalf of, the member and others, as specified. (ED § 22008)
   a) If CalSTRS makes an error that results in an incorrect payment to such individuals, CalSTRS' right of recovery expires three years from the date of the incorrect payment.
   b) If CalSTRS makes an incorrect payment due to the lack of, or inaccurate, information, as specified, the three-year period of limitation on recovery commences with the discovery of the incorrect payment.
   c) If CalSTRS makes an incorrect payment based on the member's fraud or intentional misrepresentation, the three-year limitation does not commence until CalSTRS discovers the incorrect payment.

5) Authorizes CalSTRS to reduce the retiree's monthly allowance payable under the Defined Benefit (DB) Program, Defined Benefit Supplement (DBS) Program, and Cash Balance (CB) Benefit Programs, as specified, if the overpayment was due to CalSTRS' error, the county school superintendent's error, or district's error, or if the error was due to inaccurate or nonsubmission of information by the recipient of the benefit allowance. (ED § 24617)

6) Provides for violations and penalties of one-year imprisonment in a county jail, or a fine up to $5,000, or both, including restitution, with respect to actions that defraud or attempt to defraud CalSTRS with respect to any benefit it administers. (ED § 22010)

7) Establishes that CalSTRS must deduct any overpayment made to, or on behalf of, any member, former member or beneficiary from any subsequent benefit that may be payable under either the DB, DBS, or CB Benefit programs and may concurrently proceed with any legal claim for restitution. (ED § 24616)

8) Provides that if an employer reports erroneous information to CalSTRS, the system must calculate the actuarial present value (APV) of the expected payments from the member, the former member, or beneficiary pursuant to existing law, and require the employer to pay the difference between the total amount of the overpayment and the calculation of the APV of the expected payments. (ED § 24617)

9) Authorizes CalSTRS to recover overpayments by reducing a benefit recipient's monthly allowance under the DB, DBS, or CB programs by an amount no greater than five percent if the overpayment was due to CalSTRS' error or that of the county superintendent or the district, and by no more than 15 percent if the error was due to the benefit recipient's submission of inaccurate information or nonsubmission of information. (ED § 24617)

10) Establishes procedures concerning payment and compliance with federal law in making distributions whereby CalSTRS must make plan distributions in accordance with Section 401(a)(9) of the Internal Revenue Code and related regulations.

11) Defines, generally, "creditable compensation" to mean compensation reportable to CalSTRS for an employee's performance of "creditable service." Sick leave, vacation, or an employer-approved leave are included in the statutory definition of this term.[1] "Creditable service" generally means the work activities that count toward years of service for purposes of CalSTRS retirement. (ED § 22119.5, 22119.6, and 26113)

12) Requires CalSTRS staff to report annually to the CalSTRS board the amount of underpayment made to recipients under the DB, DBS, and CB programs; the amount to be recovered because of overpayments; and the number of overpayments under these programs. (ED § 24619)

13) Provides, pursuant to the state constitution that all people have inalienable rights, including the right to pursue and obtain privacy. (Ca. Const., Art. I, § 1)

14) Provides that, mindful of the right of individuals to privacy, the Legislature finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. (Government Code § 6250)

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[1] Sections 22119.2 (for CalSTRS' 2% at 60 members) and 22119.3 (for CalSTRS' 2% at 62 members) of the Education Code, respectively. Also see Chap. 2, Div. 3, of Title 5 Cal. Code of Regs, and Sections 27400 and 27401 regarding creditable compensation, and Sections 27500 and 27501 regarding noncreditable compensation, id.

This bill:

1) Defines "Employee Representative" to mean "an exclusive representative as defined in subdivision (e) of Section 3540.1 of the Government Code. [2]

2) Requires CalSTRS, before auditing the records of a public agency, to provide written notice of the intended audit to the public agency and the appropriate exclusive representative of members that the audit may affect.

3) Requires the audit notice to apprise the public agency and the exclusive representative of the purpose and scope of the intended audit.

4) Requires the public agency to provide CalSTRS with the name and contact information for all applicable exclusive representatives for purposes of carrying out these provisions.

5) Requires an audited public agency to cooperate in good faith with CalSTRS and provide all information requested in a timely manner. The public agency, at the time it provides information to CalSTRS, shall also provide all the information to the appropriate exclusive representative of the members affected by the audit.

6) Authorizes an audited public agency and the exclusive representative to provide additional information relevant to the audit, and requires CalSTRS to consider this information in preparing its audit findings. Clarifies that this does not confer additional rights, including due process right, upon the exclusive representative other than the notification and response rights provided by the bill

7) Requires CalSTRS, prior to issuing its final audit report, to provide to the audited public agency and to the exclusive representative its preliminary audit findings, the statutes being addressed by the audit, and a list of every member then known and affected by the audit.

8) Allows the recipients to provide, within not less than 60 days as specified by CalSTRS, their written responses to the preliminary audit findings and requires CalSTRS to consider their responses in preparing its final audit report.

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[2] GC § 3540.1 (e) defines "Exclusive Representative" to mean the employee organization recognized or certified as the exclusive negotiating representative of public school employees, as "public school employee" is defined in subdivision (j), in an appropriate unit of a public school employer.

9) Requires the public agency to provide CalSTRS and the exclusive representative, within not less than 60 days as specified by CalSTRS, a list of the names of any members affected by the audit, as specified.

10) Requires CalSTRS to provide the final audit report to the public agency audited and to the exclusive representative and to provide the audited public agency with an explanation of its appeal rights. Clarifies that this does not confer additional rights, including due process right, upon the exclusive representative other than the notification and response rights provided by the bill

11) Requires CalSTRS to provide the final audit report, with an explanation of appeal rights, to each member affected by the audit following the public agency's notification of the members.

12) Requires CalSTRS to provide a copy of the final audit report and an explanation of appeal rights to a member or former member whom it later discovers the audit affected or to their beneficiaries if the member or former member is deceased.

13) Authorizes the audited public agency to request an administrative hearing if it disagrees with the final audit report.

14) Requires the public agency to make the request in writing and mail or email it within 90 days of the reports transmission to the public agency to the address CalSTRS identifies in the final audit report.

15) Provides that the public agency waives the right to an administrative hearing if it fails to request the hearing in the allotted time and the final audit report findings become CalSTRS's final determination *as to that public agency*.

16) Provides that an affected member may request an administrative hearing if the member disagrees with the final audit report. The member shall make the request in writing and mail or email it to the designated address CalSTRS identifies in the final audit report within 90 days of the report transmission to the member.

17) Provides that the member waive the right to an administrative hearing if the member fails to request the hearing in the allotted time and the final audit report findings become CalSTRS's final determination *as to the member*.

18) Requires CalSTRS to make all final employer audit reports available on its internet website and requires CalSTRS to exclude personal information regarding members to the extent necessary to protect their privacy.

19) Requires CalSTRS, at least annually, to provide resources that interpret and clarify the applicability of creditable compensation and creditable service laws and regulations.

20) Prohibits new or different interpretations, as specified, from taking effect until after CalSTRS issues notice to employers and exclusive representatives and prohibits the interpretations from applying retroactively to compensation reported prior to that notice, unless state or federal law or an executive order of the Governor expressly requires a retroactive interpretation.

21) Prohibits new or different interpretations applying before the next July 1 unless changes to state or federal law, an executive order of the Governor, a CalSTRS advisory letter, or programs require application of revision of the creditability of compensation on an earlier basis.

22) Provides that, for audit purposes or any other CalSTRS actions, employers are responsible for the rules in effect at the time they report compensation except when expressly superseded by state or federal law or an executive order of the Governor.

23) Deems any compensation the public agency reported in accordance with the resources provided by CalSTRS, as specified, to be CalSTRS' error and requires CalSTRS to recover the costs, with interest as specified, of the resulting pension overpayment as follows: 85% from the state through a continuous General Fund appropriation and 15% directly from all school employers.

24) Authorizes an employer or an exclusive representative to submit to CalSTRS a request for an advisory letter and defines the following terms for purposes of requiring CalSTRS to respond to the request:
    a) "Advisory letter" means a written determination issued to an employer or an exclusive representative in response to the employer's or exclusive representative's submission relating to compensation that is included, or is proposed to be included, in a publicly available written contractual agreement in order for the system to provide formal written guidance for the proper reporting of such compensation consistent with the laws governing creditable compensation and the administrative regulations of the system.

b) "Material facts" means facts that would have changed the determination made in an advisory letter.

25) Requires a submission to CalSTRS for an Advisory letter to be in writing on a form provided by CalSTRS and to include the compensation language, a description of the facts related to the compensation language and the basis of the requesting party's inquiry, including, but not limited to, specific questions about the reporting of the compensation, and any other supporting documents or requirements CalSTRS deems necessary to complete its review.

26) Permits CalSTRS to deny a submission if it involves an issue that is in litigation with CalSTRS and the employer or a member to whom the advisory letter would expressly relate.

27) Permits the employer or exclusive representative to withdraw a submission any time before CalSTRS provides an advisory letter.

28) Requires CalSTRS to provide an advisory letter regarding the submission to the employer or exclusive representative within 30 days of the receipt of all information requested, unless an extended period of time is necessary for good cause.

29) Clarifies that state or federal law, a Governor's executive order, or CalSTRS rule, as provided, may supersede an advisory letter.

30) Deems any resulting overpayment from compensation reported in error by the employer or on behalf of a member to whom an advisory letter applies that was in accordance with CalSTRS's advisory letter, as CalSTRS' error and requires CalSTRS to recover the costs, with interest as specified, of the resulting pension overpayment as follows: 85% from the state through a continuous General Fund appropriation and 15% directly from all school employers.

31) Allows only the employer or the member to whom an advisory letter expressly relates to use and rely upon, or offer as evidence of a CalSTRS error, the advisory letter in an action brought by CalSTRS.

32) Conditions the use and reliance upon, or the offering in evidence of, an advisory letter on CalSTRS' determination that one disclosed all material facts related to the compensation in the employer or union's submission and that the employer reported compensation in reliance on the advisory letter.

33) Makes this bill's advisory letter provisions operative on July 1, 2023.

34) Authorizes a county superintendent of schools that reports directly to CalSTRS to draw requisitions against the county school service fund and the funds of the county's respective employing agencies in amounts equal to the total the employing agency is required to pay for the purpose of remitting contributions, assessments, or any other payment CalSTRS requires.

35) Permits the county superintendent of schools to draw requisitions against the county school service fund and the funds of the county's respective employing agencies, as applicable, in amounts necessary for recovering payments made pursuant to the process established by the bill for recovering overpayments when the employer committed error in reporting disallowed compensation.

36) Amends a statute that gives CalSTRS' authority to collect overpayments, as specified, by deducting the amount from a member's benefits, to reference the bill's newly established procedure to collect payments from employers if the employer's error caused the reporting of disallowed compensation.

37) Requires, except as limited by existing statute of limitation laws that limit the time CalSTRS has to recover overpayments (i.e., generally three years), all amounts that CalSTRS has overpaid to a member due to inaccurate information, untimely submission, nonsubmission of information, or on the basis of fraud or intentional misrepresentation by, or on behalf of, a recipient of a benefit, annuity, or refund to be recovered, as applicable, from the member, participant, former member, former participant, or beneficiary except amounts overpaid as follows:
    a) All amounts overpaid due to the employer's inaccurate information, untimely submission, or nonsubmission of information, as specified. CalSTRS shall recover such amounts from the employer.
    b) Amounts overpaid due to a county superintendent's inaccurate information, untimely submission, or nonsubmission of information, as specified. CalSTRS shall recover such amounts from the county superintendent who in turn, may recover from the employer if the employer was the cause of such reporting or approved the reporting by the superintendent, as specified.
    c) Amounts overpaid due to errors deemed by the bill to be CalSTRS' error. The bill requires CalSTRS to recover the costs, with interest as specified, of the resulting pension overpayment as follows: 85% from the state through a continuous General Fund appropriation and 15% directly from all school employers.

38) Requires an employer to remit to CalSTRS specified required amounts within 30 days of the date of the invoice. If the system does not receive payment

within 30 days, the amount owed to the system shall be recalculated to include regular interest from the initial due date.

39) Requires the State Controller, upon CalSTRS's order as specified, to reduce subsequent payments from the State School Fund to the county for deposit in the county school service fund by the amount owed or, upon the request of a county superintendent of schools to the county auditor, the Controller shall reduce payments to a school district for deposit in the district general fund by the amount owed, and pay CalSTRS if the owed amount is not received within 30 days.

40) Exempts from this bill's overpayment recovery procedures specified recovery of overpayments associated with disability payment interactions and limitations, other public benefit payments, and post-retirement earnings limitations.

41) Deletes existing law that requires a school employer who reported an error to CalSTRS resulting in a pension overpayment to pay the difference between the actuarial adjusted pension and the pension overpayment, as specified.

42) Requires CalSTRS to correct the plan benefit to recover a benefit overpayment but prohibits CalSTRS from reducing the retiree's monthly benefit allowance by more than 15% if the error that caused the overpayment amount was due to inaccurate information or nonsubmission of information by, or on behalf of, a recipient of the allowance (but not including such an error by CalSTRS, the county superintendent, or a school employer).

43) Prohibits one from interpreting the bill's overpayment recovery procedure, as specified, from limiting CalSTRS authority to correct benefits except as explicitly provided by the provisions that establish the procedure.

Related/Prior Legislation

AB 2493 (Chen, 2022) requires County Employee Retirement Law (CERL) Systems to bear the costs of insulating peace officer and firefighter retirees retroactively from required pension allowance adjustments due to the California Supreme Court's *Alameda* decision arising out of disallowed compensation. The bill is currently on the Senate Floor.

AB 826 (Irwin, 2021) amends the CERL definition of "compensation" and "compensation earnable" for legacy members of the Ventura County Employee Retirement Association (VCERA) to include an employee's flexible benefit allowance, subject to specified criteria, and ensure that such compensation not be

deemed disallowed compensation prohibited by PEPRA and the *Alameda* decision. The bill is currently on the Senate Floor on the Senate Inactive File.

SB 278 (Leyva, Chapter 331, Statutes of 2021) required CalPERS public employers to reimburse CalPERS for overpayments made to retirees whose pension allowances were eventually adjusted downward to reflect the disallowed compensation initially included in their pension calculation.

SB 266 (Leyva, 2019) would have required that, in the event of a CalPERS retiree having their pension reduced due to the inclusion of compensation by the relevant public employer that cannot be counted towards a final pension calculation, the public employer would have to cover the reduced benefit to the retiree, as specified. The Assembly held the bill at the Desk after being withdrawn from Engrossing and Enrolling.

SB 1124 (Leyva, 2018) also dealt with disallowed compensation for CalPERS members, retirees, beneficiaries, and survivors. The Governor vetoed the bill.

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

According to the Senate Appropriations Committee:

- CalSTRS anticipates that $1.5 million to $3 million in overpayments that are recoverable under current law would not be so under the provisions of the bill. For perspective, the pension system recaptured $74 million in overpayments in 2020-21 (Teachers' Retirement Fund).

- CalSTRS indicates that it would incur annual staffing costs of $4.8 million to implement the provisions of the bill, and notes that required administrative system changes would create unknown, but likely significant costs, and delays for its new pension administration system (Teachers' Retirement Fund).

SUPPORT: (Verified 8/26/22)

California County Superintendents Educational Services Association (co-source)
California Retired Teachers Association (co-source)
California Teachers Association (co-source)
Alameda County Office of Education
Amador County Unified School District
Association of California Community College Administrators
Association of California School Administrators
Association of California Suburban School Districts
Calaveras County Office of Education

California Alliance for Retired Americans
California Association of School Business Officials
California Association of Suburban School Districts
California Federation of Teachers, AFL-CIO
California Labor Federation, AFL-CIO
California School Employees Association
Colusa County Office of Education
Contra Costa County Office of Education
Delta Kappa Gamma California
El Dorado County Office of Education
Faculty Association of California Community Colleges
Fresno County Office of Education
Fresno County Superintendent of Schools
Humboldt County Office of Education
Imperial County Office of Education
Kern County Office of Education
Kern County Superintendent of Schools
Lake County Office of Education
Lassen County Office of Education
Los Angeles County Office of Education
Madera County Office of Education
Marin County Office of Education
Mariposa County Unified School District
Mendocino County Office of Education
Merced County Office of Education
Mono County Office of Education
Monterey County Office of Education
Napa County Office of Education
Nevada County Superintendent of Schools
Orange County Department of Education
Placer County Office of Education
Plumas County Office of Education/unified School District
Riverside County Office of Education
Riverside County Superintendent of Schools
Sacramento County Office of Education
San Benito County Office of Education
San Bernardino County Superintendent of Schools
San Diego County Office of Education
San Joaquin County Office of Education
San Mateo County Office of Education

Santa Barbara County Education Office
Santa Clara County Office of Education
School Employers Association of California
Small School Districts' Association
Solano County Office of Education
Tehama County Department of Education
Tehama County Office of Education
Trinity County Office of Education
Tuolumne County Superintendent of Schools
Ventura County Office of Education
Yolo County Office of Education
Yuba County Office of Education

OPPOSITION: (Verified 8/26/22)

None received

ARGUMENTS IN SUPPORT: According to the sponsors, "Existing law requires school and community college employers to correctly report collectively bargained pension-eligible compensation to CalSTRS. Unfortunately, clear and accurate guidance on what is and is not creditable has not been provided, causing incorrect information to be reported to CalSTRS. When this happens, it is typically found during an audit that may take place years after this took place and ultimately results in the former employee who is retired being forced to pay back the overpaid amount and suffer a permanent reduction in future retirement payments. This places retirees in a precarious fiscal situation as they met with a CalSTRS counselor to verify all information was correct prior to retirement, and subsequently made permanent retirement decisions based upon this information.

"These errors may not only be quire costly for the retiree, through no fault of their own, but the errors can be costly both fiscally and administratively to school and community college districts. By minimizing future errors by ensuring more accurate and transparent information is available, we believe overall savings may be achieved at the district level, which will also save retirees from bearing a fiscal cost for mistakes they did not make."

ASSEMBLY FLOOR: 75-0, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong,

Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Berman, O'Donnell, Villapudua

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
8/26/22 15:36:11

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

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THIRD READING

Bill No: AB 1685
Author: Bryan (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 13-1, 6/14/22
AYES: Gonzalez, Bates, Allen, Becker, Cortese, Dodd, Limón, McGuire, Min, Newman, Skinner, Wieckowski, Wilk
NOES: Melendez
NO VOTE RECORDED: Archuleta, Dahle, Rubio

SENATE HUMAN SERVICES COMMITTEE: 4-0, 6/27/22
AYES: Hurtado, Cortese, Kamlager, Pan
NO VOTE RECORDED: Jones

SENATE APPROPRIATIONS COMMITTEE: 6-0, 8/11/22
AYES: Portantino, Bates, Bradford, Laird, McGuire, Wieckowski
NO VOTE RECORDED: Jones

ASSEMBLY FLOOR: 74-0, 5/25/22 - See last page for vote

SUBJECT: Vehicles: parking violations

SOURCE: Author

DIGEST: This bill requires processing agencies to forgive at least $1,500 in parking tickets for individuals who are verified to be homeless.

Senate Floor Amendments of 8/25/22*:*

1) Replace the requirement that processing agencies report information on the amount of their forgiveness to the California Interagency Council on Homelessness (CICH) with the lesser requirement that the agencies simply collect that information.

2) Authorize the CICH to request forgiveness information from processing agencies.

3) Exempt from the Administrative Procedures Act any revision the CICH makes to its rules to implement these provisions.

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 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 $500 or less, in a period within 24 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; and,

   d) Allows the application for indigency determination for a period of 120 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.

5) Establishes the California Interagency Council on Homelessness (CICH) with the purpose of coordinating the state's response to homelessness by utilizing Housing First Practices.

This bill:

1) Provides that for unpaid parking penalties issued on and after July 1, 2023, the processing agency may not request that vehicle registration be withheld unless all of the following conditions are met by the agency:

   a) The agency has created a parking forgiveness program for the homeless.

   b) An applicant who is verified to be homeless shall have any outstanding parking fines and fees forgiven no less than 30 days after their application is received by the processing agency. The agency may limit the forgiveness to $1,500 per calendar year and limit the number applications to four times a year.

   c) Authorizes a processing agency to verify an applicant's status through a continuum of care or a homeless services provider, including, but not limited to, a health care provider, legal services provider, or other entity that services people experiencing homelessness and makes referrals to other homeless services providers, that is connected to the coordinated entry system and is contracting with a continuum of care. A legal services provider or health care provider may require an applicant to be a client in order to make the verification.

   d) Provides that an area in which the availability of homeless services providers is limited, as determined by the continuum of care in the form and manner prescribed by CICH, the CICH shall develop an alternative low-barrier process to determine an applicant's status as homeless.

e) Requires processing agencies to inform parking ticket recipients of this forgiveness program, as specified.

f) The agency shall, by no later than March 1, 2024, collect and have readily available information on the number of applications received and the amount of fines and penalties waived. The California Interagency Council may request copies of this information.

2) Authorizes CICH to develop necessary regulations and exempts those regulations from the Administrative Procedures Act.

Comments

1) *Purpose*. According to the author, "parking enforcement can exacerbate poverty and the cost of enforcement for local governments are often greater than the fines and fees that end up being collected. AB 1685 will waive many parking fees for people who are unhoused. Instead of continuing to penalize poverty, let's save some money with good policy and use it to get people more of the housing and services they really need. Lose your financial stability, lose your house. Lose your house, live in your car. Lose your car, set up an encampment. This cycle of poverty is vicious and AB 1685 creates the policy solution that allows us to do better."

2) *The real cost of a parking ticket for an individual experiencing homelessness.* In Sacramento, the fine for a parking ticket is $52. If the individual is unable to pay that ticket on time, the late fee adds an additional $52. If the city then requires the DMV to collect the unpaid debt, DMV would add the entire cost of the outstanding parking ticket and fines to vehicle registration fees. If unable to pay this amount all at once on top of their vehicle registration fees, late fees for vehicle registration increase by 60% of the original fee for payments over 30 days late, which can increase the registration fee as much as $100. If a person is then pulled over for having an unregistered vehicle, the fine for driving unregistered vehicles is currently $285. All totaled, these fines add up to $489.

   Many individuals experiencing homelessness live in their vehicles. Cal Matters estimates that there is roughly 161,000 people experiencing homelessness in California based on the latest tally taken in 2020 before COVID-19. Similarly, Cal Matters estimates that 16,528 of the 161,000 people experiencing homelessness own and live in their vehicle. Parking tickets accumulate quickly and create a cycle of debt wherein they are unable to pay back parking fines. As the tickets pile up, costs rise to include late fees, making it more likely that the individual's car will be towed. Having five or more unpaid parking tickets

allows law enforcement to tow someone's car, essentially towing away the individual's home, and potentially their only place of safety.

3) *Towing costs*. *Towed into Debt: How Towing Practices in California Punish Poor People,* a report issued by the sponsors of this bill, notes that the average tow fee in California is $189, with a $53 storage fee per day and a $150 administrative fee. After three days of storage, a towing fee could come out to $499. The cost of five unpaid parking tickets in Sacramento would result in a total cost of $520 with late fees. The cost of a three day tow plus the costs of the five unpaid parking tickets ($1,019) would amount to all but $400 of an indigent person's monthly income if they made the maximum amount to make them eligible for Medi-Cal.

   The Legislature has addressed the impact of parking fines on the homeless. In 2017 the Legislature passed and the Governor signed AB 503 (Lackey: Chapter 741) to reduce parking penalties for indigent individuals by requiring the offering of a payment plan and the waiver of penalties. Subsequent legislation has been enacted to close loopholes in the original legislation and to increase the cap on the amount that can be subject to a payment plan.

   This bill builds on existing law by requiring that processing agencies waive unpaid parking ticket balances of up to $1,500 waived for individuals verified as experiencing homelessness. Supporters expect that this will reduce the likelihood of their vehicle being towed and further exacerbating their indigence.

4) *Where do the expenses go*? Waiving fees does not mean that the costs simply go away. Upon issuance of parking tickets, towing and storage of the vehicle may be appropriate and this is often done by a private company. If the owner of the vehicle does not pay these fees, will the city be required to pay them, and if that is the case will the city be less likely to tow a vehicle that could be presenting a safety hazard? This bill does not specify how these additional expenses will be handled.

5) *Opposition*. The California Mobility and Parking Association (CMPA) writes in opposition to this bill citing their concerns for the scope of the fine forgiveness and concerns that the measure does not restrict the $1,500 amount to a single agency. Other opposition includes cities that want the state to backfill any lost revenue or want to use their existing parking forgiveness program in lieu of the program established by this bill.

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

According to the Senate Appropriations Committee:

- The California Interagency Council on Homelessness (Cal-ICH) estimates costs of approximately $645,000 in the first year and $613,000 annually ongoing for 4.0 PY of staff to develop a process to determine homeless eligibility status, solicit, compile, and collect information from processing agencies, and establish and administer a database to collect and store information. (General Fund)

- Unknown, potentially significant state costs for state parking entities (primarily state institutions of higher education) to establish parking citation forgiveness programs, determine applicants' status as homeless, post information on websites, and report specified information to Cal-ICH. (General Fund, State University Parking Revenue Fund)

- Unknown, significant reduction in state parking citation revenue (for citations issued by state parking entities) related to the mandatory forgiveness of at least $1,500 in parking debt per eligible applicant each year. Staff notes that homeless persons are likely to opt for this forgiveness program rather than entering into a payment plan, as specified in existing law. (State University Parking Revenue Fund, other funds administered by institutions of higher education)

- Unknown significant local costs and revenue losses related to the requirements that processing agencies establish parking citation forgiveness programs for individuals experiencing homelessness, waive fines and fees, provide information on websites, and report specified information to Cal-ICH. It is unclear whether these costs would be reimbursable by the state because local entities appear to have fee authority that disclaims state responsibility for reimbursement. Ultimately, however, whether local costs are reimbursable would be subject to a determination by the Commission on State Mandates, to the extent an eligible local agency files a test claim. (General Fund)

SUPPORT: (Verified 8/26/22)

Abundant Housing LA
Alameda County Democratic Party
Asian Americans Advancing Justice – California
Bend the Arc: Jewish Action, Southern California
Brilliant Corners
California Federation of Teachers, AFL-CIO

California Housing Partnership Corporation
Corporation for Supportive Housing
Culver City Democratic Club
Downtown Women's Center
East Bay Home Bridge Connect
East Bay Housing Organizations
Housing California
Inner City Law Center
John Burton Advocates for Youth
LA Family Housing
Long Beach Mayor Robert Garcia
Los Angeles County Democratic Party
Los Angeles Homeless Services Authority
National Alliance to End Homelessness
National Association of Social Workers, California Chapter
North Westwood Neighborhood Council
North Westwood Neighborhood Council, Community Health & Homelessness Committee
Orange County United Way
Path
Root & Rebound
Streets for All
Sycamores
The People Concern
Union Station Homeless Services
Western Center on Law & Poverty, Inc.
YIMBY Action

OPPOSITION: (Verified 8/26/22)

California Public Parking Association
City of Beverly Hills
City of Oceanside
City of Santa Barbara
League of California Cities
Manteca Chamber of Commerce
Marin County Council of Mayors and Council Members
Mayor Eric Garcetti, City of Los Angeles
MCCMC

ASSEMBLY FLOOR: 74-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Seyarto, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, O'Donnell, Salas, Smith

Prepared by: Katie Bonin / TRANS. / (916) 651-4121, Randy Chinn / TRANS. / (916) 651-4121
8/26/22 15:36:11

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

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THIRD READING

Bill No: AB 1691
Author: Medina (D), et al.
Amended: 8/11/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 6/13/22
AYES: Cortese, Ochoa Bogh, Durazo, Laird, Newman

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 55-11, 5/26/22 - See last page for vote

SUBJECT: Education finance: Classified School and Community College Employee Summer Assistance Programs

SOURCE: California School Employees Association
California State Council of Service Employees International Union

DIGEST: This bill adds clarifying language to the existing Classified School Employee Summer Assistance Program (CSESAP) and to the new Classified Community College Employee Summer Assistance Program (CCCESAP) as established recently by AB 183[1].

ANALYSIS:

Existing law:

1) Establishes the Classified School Employee Summer Assistance Program (CSESAP) to provide a participating K-12 classified school employee one

[1] AB 183 (Committee on the Budget), Chapter 54, Statutes of 2022, the Higher Education Budget Trailer Bill, as included in Section 37.

dollar for each one dollar that the classified employee elects to have withheld from the employee's monthly paychecks. (Education Code § 45500 (a) - (b)).

2) Authorizes a K-12 Local Educational Agency (LEA) to elect to participate in the program; requires the LEA to notify classified employees of its participation, as specified; and prohibits the LEA from reversing its decision for the next school year beginning after the end of the fiscal year in which the state appropriates moneys for the program's purpose. (ED § 45500 (c))

3) Requires an eligible employee to notify the LEA in writing of the employee's decision to participate by March 1 during the fiscal year in which the state appropriates moneys for the program; to specify the amount the employer should withhold from the employee's monthly paycheck, up to 10 percent; and choose between receiving the withheld payments and the program match in one or two payments during the summer recess. (ED § 45500 (d) (1))

4) Establishes that an employee is eligible to participate if the LEA has employed the employee for at least one year or the LEA has employed the employee in the employee's regular assignment for 11 months or fewer out of a 12-month period, excluding any hours the employee worked outside of the employee's regular assignment. (ED § 45500 (d) (2)-(3))

5) Requires the LEA to exclude, for the 2020-21, 2021-22, 2022-23, 2023-24, and 2024-25 school years, any hours the employee worked due to an extension of the academic year directly related to the COVID-19 pandemic when determining the employee's eligibility, as specified. ((ED § 45500 (d) (3))

6) Prohibits a classified employee from participating in the program if the employee's regular annual pay received directly from the LEA is more than $62,400 for an entire school year at the time of enrollment, excluding any pay received by the employee during the previous summer recess period. (ED § 45500 (d) (4))

7) Requires an LEA that elects to participate in the program to notify the California State Department of Education (CDE) in writing, by April 1 during a fiscal year in which the state appropriates moneys for the program of its election. The notice shall specify the number of employees participating in the program and the total estimated amount the LEA will withhold from participating employees' paychecks for the applicable school year. (ED § 45500 (e))

8) Requires CDE to notify participating LEAs in writing, by May 1 during the fiscal year in which the state appropriates moneys for the program, of the estimated state matching fund amount that a participating employee can expect to receive, or the prorated amount if state funding is insufficient to provide the dollar-to-dollar match. (ED § 45500 (f))

9) Requires an LEA to notify its participating employees by June 1 of the estimated state match funds that they may receive from the program and provides the employees the option of withdrawing from the program or reducing their withholding amount no later than 30 days after the applicable school year's start of school instruction. (ED § 45500 (g))

10) Specifies other elements of the program that allow employees to withdraw for economic or personal hardship or separation from employment, as well as administrative procedures for CDE and LEAs to apportion and pay out the program funding. (ED § 45500 (h) – (n))

11) Excludes the matching funds from compensation for purposes of retirement benefits in the California Public Employees' Retirement System or the California State Teachers' Retirement System. (ED § 45500 (o))

12) Makes the program's operation contingent upon an appropriation through the annual Budget Act or another statute for the 2020-21 fiscal year and each fiscal year thereafter. (ED § 45500 (p))

13) Defines the following terms:

    a) "Summer recess period" to mean the period that regular class sessions are not being held by the LEA during the months of June, July, and August. Due to this definition, the LEA must include, in determining the employee's eligibility, pay earned by the employee for other work assignments during those months that are not for the summer session. (ED § 45500 (d) (4) (b))

    b) "Local education agency" to mean a school district or county office of education. (ED § 45500 (q) (1))

    c) "Program" to mean the Classified School Employee Summer Assistance Program. (ED § 45500 (q) (2))

    d) "Regular Assignment" to mean a classified employee's employment during the academic school year, excluding the summer recess period. (ED § 45500 (q) (3))

14) Creates a parallel program for community college classified employees. (ED § 88280)

This bill adds clarifying language to CSESAP and CCCESAP as follows:

1) Defines "month" to mean 20 days or 4 weeks of 5 days each, including legal holidays. This language was not included in AB 183.

2) Adds clarifying language that for the 2023-24 fiscal year and each fiscal year thereafter, like the CSESAP, the CCCESAP program's operation shall be contingent upon an appropriation in the annual Budget Act or another statute.

3) Adds conforming language passed in AB 183 which extended the exclusion of hours worked by the result of an extension of the academic school year directly related to the COVID-19 pandemic for the 2023-24 and 2024-25 school years.

4) Adds conforming language from AB 183 that clarifies the Department of Education may use any *unexpended balance* of moneys appropriated in any *prior* fiscal year for the programs.

Background

Earlier versions of this bill expanded the Summer Assistance Program to classified community college employees by establishing the CCCESAP as a new program. The bill also made minor changes to CSESAP. AB 183, which was chaptered on June 30, 2022, included the language establishing CCCESAP. Thus, this bill (AB 1691) now makes only minor, clarifying changes to existing law.

Related/Prior Legislation

AB 183 (Committee on Budget, Chapter 54, Statutes of 2022) was a Higher Education budget trailer bill that included provisions to establish CCCESAP. (Sec. 37.)

SB 75 (Committee on Budget and Fiscal Review, Chapter 51, Statutes of 2019) was a budget trailer bill that made changes to the Education Code to implement the 2019-20 Budget Act. The bill included an appropriation for $36 million in one-time Proposition 98 funding for the CSESAP, created in the 2018-19 budget. The bill also made changes to the program to allow the funds to be available over three years, to increase the minimum salary requirements, and to make other minor and technical changes. (Sec. 27.)

AB 114 (Committee on Budget, Chapter 413, Statutes of 2019) was a budget clean-up trailer bill that made changes to the Education Code to implement the 2019-20 Budget Act. The bill included provisions that amended the School Employees Summer Assistance program to ensure eligible employees were able to participate, including those who worked during previous summer breaks but not within the period for which they applied for the program. Other technical amendments were included to clarify implementation of the program. (Sec. 5.)

AB 1808 (Committee on Budget, Chapter 32, Statutes of 2018) was a budget trailer bill that included $50 million in one-time Proposition 98 funding for the Classified School Employee Summer Assistance Program. (Sec. 133)

AB 1840 (Committee on Budget, Chapter 426, Statutes of 2018) was a budget trailer clean-up bill that included provisions that made clarifying changes to the Classified School Employee Summer Assistance Program. (Sec. 37.)

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

According to the Senate Appropriations Committee:

- The California Community College Chancellor's Office indicates that it would incur one-time administrative costs of $55,000, and $11,000 annually thereafter, to implement the provisions of the bill (General Fund).

SUPPORT: (Verified 8/13/22)

California School Employees Association (co-source)
California State Council of Service Employees International Union (co-source)
American Federation of State, County and Municipal Employees, AFL-CIO
California Federation of Teachers AFL-CIO
California Labor Federation, AFL-CIO

OPPOSITION: (Verified 8/13/22)

None received

ARGUMENTS IN SUPPORT: According to the California School Employees Association:

"In 2018, legislators created the Classified School Employee Summer Assistance Program. This program allows eligible, low-wage classified school employees who work for TK-12 school districts to set aside a small portion of their paychecks during the school year to receive up to a dollar-for-dollar match from the state

during the summer when work is not available. School districts must elect to participate in CSESAP.

"CSESAP has helped ease the financial burden for many classified employees, however, many employees still cannot access the program. Under current law, classified employees who work at community colleges are not eligible to participate in CSESAP. This bill would include community college classified employees and create parity between all classified employees in the state."

According to SEIU California, "This bill makes meaningful investments to a workforce that is often overlooked and left behind. Stabilizing the program and expanding it to community college classified workers provide much needed support and greatly enhance workforce retention."

ASSEMBLY FLOOR: 55-11, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Megan Dahle, Davies, Fong, Gallagher, Kiley, Mathis, Nguyen, Seyarto, Smith, Voepel
NO VOTE RECORDED: Berman, Chen, Choi, Cunningham, Flora, Jones-Sawyer, Lackey, Mayes, O'Donnell, Patterson, Valladares, Villapudua

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
8/15/22 13:10:13

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

SENATE RULES COMMITTEE AB 1695
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THIRD READING

Bill No: AB 1695
Author: Santiago (D)
Amended: 8/24/22 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 7-0, 6/21/22
AYES: Wiener, Caballero, Cortese, McGuire, Roth, Skinner, Umberg
NO VOTE RECORDED: Bates, Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 54-12, 5/25/22 - See last page for vote

SUBJECT: Affordable housing loan and grant programs: adaptive reuse

SOURCE: AIDS Healthcare Foundation

DIGEST: This bill requires the Department of Housing and Community Development (HCD) to allow for adaptive reuse as an eligible activity for any notice of funding availability (NOFA) for an affordable multifamily housing loan.

Senate Floor Amendments of 8/24/22 add that any affordable housing loan program that allows for homeownership will also include adaptive reuse as an eligible activity. The amendments also state that the definition of "adaptive reuse" stated in this bill applies only to programs that have not already defined it.

ANALYSIS: Existing law establishes the Multifamily Housing Program (MHP) to assist in the new construction, rehabilitation, and preservation of permanent and transitional rental housing for persons with incomes of up to 60% of the area median income (AMI).

This bill:

1) Requires any NOFA issued by HCD for an affordable multifamily housing loan to allow for adaptive reuse as an eligible activity.

2) Defines "adaptive reuse" as the retrofitting and repurposing of an existing building to create new residential units.

Background

California Housing Crisis. The lack of supply for households at all income levels is the primary factor underlying California's housing crunch. The state Department of Housing and Community Development (HCD) estimates that California needs to build 180,000 new homes a year to keep up with population growth. More recently, HCD noted in its statewide housing plan that California must plan for more than 2.5 million homes over the next eight-year cycle, and no less than one million of those homes must meet the needs of lower-income households. This represents more than double the housing planned for in the last eight-year cycle.

The median home price in California is $771,270 in 2022 which is double the nationwide median. It is second to Hawaii, and Washington is third with a median price of $592,400. In terms of rental markets, California has all ten of the top ten most unaffordable counties for a two-bedroom apartment and holds eight of the top ten most unaffordable metropolitan areas. In addition, almost three million enter households, almost half of rental households in California, are low-income (50-80% AMI), very low income (30-50% AMI), or extremely low income (0-30% AMI). As a result, many Californians are rent burdened (spend more than 30% of their income on rent): almost 90% of extremely low-income, 85% of very low-income, and 63% of low-income households.

This bill allows adaptive reuse projects to obtain funding for development, which would create more housing.

Comments

1) *Author's Statement.* According to the author, "It is California's responsibility to address the current affordable housing crisis as it will only continue to grow if it does not make adaptive reuse a substantial part of its housing development mosaic. It is vital that adaptive reuse become a well-regarded and frequently used tool in our ongoing loan and grant housing programs administered by HCD. To help California build desperately-needed affordable housing in a more efficient and cost-effective manner, AB 1695 would require that any notice of funding availability issued by HCD for an affordable multifamily housing loan

and grant program state that adaptive reuse of a property for affordable housing purposes is an eligible activity."

2) *Multifamily Housing Program*. MHP is the state's flagship rental housing program to fund construction of deed-restricted, affordable rental housing for households at or below 60% of AMI. The program provides higher loan amounts for units that are for extremely low income households (those at or below 30% AMI). MHP has $275 million of available funding in this year's funding. In its NOFA, adaptive reuse projects are awarded scoring criteria points. These points are used to grade projects in which higher scores being more likely to receive funding. In this way, MHP incentives adaptive reuse projects.

3) *Similar Trailer Bill.* The Department of Finance proposed a trailer bill that authorizes HCD to provide grants for adaptive reuse projects. The definition in the trailer bill for adaptive reuse is the process of adapting and rehabilitating unutilized or underutilized buildings to other purposes and can serve as a valuable tool to increase the supply of housing. This is slightly different than the definition provided in this bill: the retrofitting and repurposing of an existing building to create new residential units.

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

SUPPORT: (Verified 8/8/22)

AIDS Healthcare Foundation (source)
California Apartment Association
City of Thousand Oaks
Southern California Association of Governments

OPPOSITION: (Verified 8/8/22)

None received

ASSEMBLY FLOOR: 54-12, 5/25/22
AYES: Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Valladares, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NOES: Bigelow, Choi, Megan Dahle, Davies, Flora, Gallagher, Mathis, Patterson, Seyarto, Smith, Voepel, Waldron
NO VOTE RECORDED: Aguiar-Curry, Berman, Chen, Fong, Kiley, Lackey, Mayes, Nguyen, O'Donnell, Ramos, Blanca Rubio, Villapudua

Prepared by: Andrew Dawson / HOUSING / (916) 651-4124
8/26/22 15:36:12

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

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THIRD READING

Bill No: AB 1700
Author: Maienschein (D)
Amended: 6/23/22 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 6/21/22
AYES: Bradford, Kamlager, Skinner, Wiener
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 6-0, 8/11/22
AYES: Portantino, Bradford, Jones, Laird, McGuire, Wieckowski
NO VOTE RECORDED: Bates

ASSEMBLY FLOOR: 75-0, 5/26/22 - See last page for vote

SUBJECT: Theft: online marketplaces: reporting

SOURCE: Author

DIGEST: This bill requires the Attorney General's website to contain a feature for the reporting of suspected stolen goods for sale on online marketplaces.

ANALYSIS:

Existing law:

1) Requires, until January 1, 2026, the Department of the California Highway Patrol (CHP) to coordinate with the Department of Justice (DOJ) to convene a regional property crimes task force to identify geographic areas experiencing increased levels of property crimes and assist local law enforcement with resources, such as personnel and equipment. (Pen. Code, § 13899.)

2) States that the task force, until January 1, 2026, shall provide local law enforcement in the identified region with logistical support and other law enforcement resources, including, but not limited to, personnel and equipment,

as determined to be appropriate by the Commissioner of CHP in consultation with task force members. (Pen. Code, § 13899.)

3) Creates, until January 1, 2026, the crime of organized retail theft which is defined as:

   a) Acting in concert with one or more persons to steal merchandise from one or more merchant's premises or online marketplace with the intent to sell, exchange, or return the merchandise for value;

   b) Acting in concert with two or more persons to receive, purchase, or possess merchandise knowing or believing it to have been stolen;

   c) Acting as the agent of another individual or group of individuals to steal merchandise from one or more merchant's premises or online marketplaces as part of a plan to commit theft; or,

   d) Recruiting, coordinating, organizing, supervising, directing, managing, or financing another to undertake acts of theft. (Pen. Code, § 490.4, subd. (a).)

4) Requires a marketplace, as defined, to ensure that its terms and conditions regarding commercial relationships with marketplace sellers meet certain criteria, including that they are drafted in plain and intelligible language. (Civ. Code, § 1749.7.)

This bill:

1) Requires the Attorney General to establish an online marketplace suspected stolen goods reporting location on their website so people can report items found online that they suspect have been stolen.

2) Defines "online marketplace" as any electronically based or accessed platform that may be accessed on an internet website or through an application, and that does both of the following:

   a) Includes features that allow for, facilitate, or enable third-party sellers to engage in the sale, purchase, payment, storage, shipping, or delivery of a consumer product in the state; and,

   b) Hosts one or more third-party sellers.

3) Defines "third-party seller" to mean any individual or business entity, independent of an operator, facilitator, or owner of an online marketplace, who

sells, offers to sell, or contracts to sell a product in the state through an online marketplace.

4) Defines "regional property crimes task force" to mean the CHP regional property crimes task force which was established to identify geographic areas experiencing increased levels of property crimes and assist local law enforcement with resources.

5) Requires, by January 1, 2023, the Attorney General to establish an online marketplace suspected stolen goods reporting location on its internet website for individuals to report items found on online marketplaces that they suspect are stolen goods.

6) Requires the Attorney General to provide information reported about suspected stolen goods to the applicable local law enforcement agencies and regional property crimes task force.

7) Requires, beginning February 1, 2023, an online marketplace to display on its electronically based or accessed platform a link to the online marketplace suspected stolen goods reporting location on the Attorney General's internet website.

8) States that the display shall be clearly, conspicuously, and reasonably designed to be seen by all users of the platform.

Comments

According to the author of this bill:

> Package and retail theft is on the rise. We must be creative in our solutions to combat this problem. Thieves are seizing the opportunity to resell stolen goods on loosely regulated online marketplaces. Enabling users of these platforms to easily report items they suspect of being stolen will aid law enforcement in combatting package and retail theft and provide a disincentive for thieves to sell stolen goods on these platforms.

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

According to the Senate Appropriations Committee, the DOJ reports costs of up to $451,000 in fiscal year (FY) 2022-23 and $584,000 annually thereafter in increased staff and information technology infrastructure (General Fund).

SUPPORT: (Verified 8/11/22)

Los Angeles County District Attorney's Office
Prosecutors Alliance of California
UPS

OPPOSITION: (Verified 8/11/22)

Chamber of Progress
TechNet

ARGUMENTS IN SUPPORT: According to the Prosecutors Alliance of California:

> As prosecutors, we believe it is imperative to address the drivers of organized retail theft, including the ease with which stolen goods may be anonymously sold through online marketplaces. Through online accounts with little associated personal information that is rarely verified, stolen goods can be sold to unsuspecting consumers. It is estimated that more than $500 billion in stolen items are sold through online marketplaces worldwide, annually.
>
> AB 1700 will help address this problem by providing an accessible platform for the public to report suspected stolen goods that are offered for sale through an online marketplace. This information will facilitate effective law enforcement investigation of stolen goods.

ARGUMENTS IN OPPOSITION: According to TechNet:

> AB 1700 is duplicative as most online marketplaces already provide robust reporting mechanisms for fraud and suspected stolen goods. Our marketplace companies also partner with the Attorney General and local law enforcement agencies to report crimes and suspicious activity on their platforms. By compiling reports from their own reporting mechanisms, companies can efficiently take action, compile pertinent information, and refer it to the proper law enforcement authorities. AB 1700 would require online marketplaces to post a link to a separate reporting mechanism that would undercut those efforts by redirecting user reports and possibly duplicating that information, without any guarantee the appropriate follow-up for the report will be conducted.

ASSEMBLY FLOOR: 75-0, 5/26/22

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

Prepared by: Stella Choe / PUB. S. /
8/13/22 10:41:04

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

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THIRD READING

Bill No: AB 1704
Author: Chen (R)
Amended: 8/22/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 9-0, 6/15/22
AYES: Pan, Melendez, Eggman, Gonzalez, Grove, Hurtado, Leyva, Limón, Wiener
NO VOTE RECORDED: Roth, Rubio

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 14-0, 6/27/22
AYES: Roth, Melendez, Archuleta, Bates, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 76-0, 5/25/22 - See last page for vote

SUBJECT: Limited podiatric radiography permits

SOURCE: California Podiatric Medical Association

DIGEST: This bill requires the California Department of Public Health (CDPH) to approve a course in radiation safety and radiologic technology specific to the operation of podiatric x-ray equipment, and permits CDPH to issue a limited permit in podiatric radiography if the person has completed an approved course.

Senate Floor Amendments of 8/22/22 delete the requirement that the course be jointly approved by CDPH and the Podiatric Medical Board, require the course to be provided by a licensed doctor of podiatric medicine who holds a valid radiography supervisor permit, reduce the minimum hours of education from 120 to 60 hours and add additional specific curriculum, limit the application of this bill to a podiatric office as defined, and exempts the initial regulations from the

Administrative Procedures Act while still providing an opportunity for public comment.

ANALYSIS:

Existing law:

1) Establishes the Radiological Technology Act, administered by Radiologic Health Branch (RHB) of CDPH, to establish standards of education, training, and experience for persons who use x-rays on human beings and to prescribe means for assuring that these standards are met. [HSC §114840, et seq.]

2) Prohibits any person from administering or using a diagnostic or therapeutic x-ray on human beings unless that person has been certified or granted a permit by the RHB, as specified. [HSC §106965]

3) Establishes the Radiologic Technology Certification Committee (RTCC) to assist, advise, and make recommendations to the RHB for the establishment of regulations necessary to ensure the proper administration and enforcement of the Radiologic Technology Act, composed of six physicians (three of whom must be certified by the American Board of Radiology), two persons with at least five years' experience in the practice of radiologic technology, on radiological physicist, one podiatrist, and one chiropractor. [HSDC §114860]

4) Requires CDPH to provide for the certification of radiologic technologists, with separate certificates for diagnostic radiologic technology, for mammographic radiologic technology, and for therapeutic radiologic technology. [HSC §114870(b)]

5) Permits CDPH, as it deems appropriate, to grant limited permits to persons to conduct radiologic technology limited to the performance of certain procedures or the application of x-rays to specific areas of the human body, and to prescribe minimum standards of training and experience for those persons, and prescribe procedures for examining applicants for limited permits. Requires the minimum standards to include a requirement that persons granted limited permits to meet those fundamental requirements in basic radiological health training and knowledge similar to those required for persons certified as full-scope radiologic technologists in 3) above, as CDPH determines are reasonably necessary for the protection of the health and safety of the public. [HSC §114870(c)]

6) Provides for the certification of licentiates of the healing arts as a "radiology supervisor and operator," which authorizes the holder of this certification, with

the limitation of the holder's California healing arts license, to actuate or energize x-ray equipment, and to supervise the use of registered x-ray equipment by a certified radiologic technologist, a limited x-ray radiologic technologists, or students in an approved school when the student is operating x-ray equipment. [17 CCR §30460]

7) Establishes the Podiatric Medical Board of California (PMB) to license and regulate doctors of podiatric medicine. Defines "podiatric medicine" as the diagnosis, medical, surgical, mechanical, manipulative, and electrical treatment of the human foot, including the ankle and tendons that insert into the foot, and the nonsurgical treatment of the muscles and tendons of the leg governing the functions of the foot. [BPC §2460, et seq., §2472]

8) Establishes an extensive scope of practice for certified radiologic technologists, along with a minimum of 1,850 hours of clinical training for approved diagnostic radiologic technology schools. [17 CCR §30441, §30421]

9) Establishes a scope of practice for limited permit x-ray technicians as follows:

   a) Chest radiography permit: radiography of the heart and lungs;

   b) Dental laboratory radiography permit: radiography of the intra-oral cavity, skull, and hand and wrist, for dental purposes;

   c) Extremities radiography permit: radiography of the upper extremities, including shoulder girdle, and lower extremities, excluding pelvis;

   d) Leg-podiatric radiography permit: radiography of the knee, tibia and fibula, and ankle and foot;

   e) Skull radiography permit: radiography of the bone and soft tissues of the skull and upper neck;

   f) Torso-skeletal radiography permit: radiography of the shoulder girdle, rib cage and sternum, vertebral column, pelvis and hip joints; and,

   g) DEXA permit: radiography of the total skeleton or body or part thereof, using DEXA. [22 CCR §30443]

10) Prohibits persons with a limited permit, as described above, from operating fluoroscopy equipment during exposure of a patient to x-rays, operating portable or mobile x-ray equipment, performing procedures involving computerized tomography, performing mammography procedures, performing

vascular procedures, or performing procedures involving digital photography. However, limited permit holders may obtain authorization to perform digital radiography with additional training, as specified. [22 CCR §30447]

11) Establishes requirements for schools that teach limited x-ray technician categories, including requiring the programs to be a minimum of six months, including a minimum of 190 hours of general education in radiologic technology and safety, additional hours of specific instruction in anatomy and positioning depending on category (for leg-podiatric, it is five hours of anatomy and five hours of positioning), 38 hours in various types of laboratory training, plus the performance of supervised procedures (for leg-podiatric, it is 50 supervised procedures). [17 CCR §30424]

This bill:

1) Permits CDPH to issue a limited permit in podiatric radiography, authorizing radiography of only the foot, ankle, tibia, and fibula, if the person has completed a course in radiation safety and radiologic technology, approved by CDPH, that is provided by a licensed doctor of podiatric medicine who holds a valid radiography supervisor permit. Permits the course to be online, and requires a minimum of 60 hours of education that includes instruction in radiation protection and safety, principles of radiographic exposure, anatomy and physiology, digital radiography, positioning, and the performance of at least 50 x-ray procedures under supervision.

2) Prohibits the training period from exceeding one year for any one student, and prohibits more than one student per licensed doctor of podiatric medicine who holds a valid radiography supervisor and operator permit.

3) Requires applicants for a limited permit in podiatric radiography to satisfy the eligibility requirements defined in specified regulations, including passing CDPH-approved examinations in radiation protection and safety, and podiatric radiologic technology.

4) Requires an applicant for providing the podiatric radiologic technology course to submit an application, including any required application fees, for approval by CDPH.

5) Specifies that a permit in podiatric radiography only authorizes the holder to operate podiatric x-ray equipment in a podiatric office while under the supervision of a certified supervisor and operator who is a licensed doctor of podiatric medicine. Limits the definition of “podiatric office” to only include

the physical location of the podiatrist's place of private practice or part of a podiatric medical group, and does not include an office of a medical group that includes a podiatrist or an office within a hospital.

6) Specifies that this bill does not increase the scope of practice of a doctor of podiatric medicine or authorize the holder of the permit to perform x-rays beyond the foot, ankle, tibia, and fibula.

7) Requires CDPH to adopt initial regulations implementing this bill by July 1, 2023. Exempts the regulations from the rulemaking provisions of the Administrative Procedures Act, except requires CDPH to post the proposed regulations on its internet website for public comment for 30 days for consideration by CDPH.

Comments

1) *Author's statement.* According to the author, this bill will create an alternate pathway for trained podiatric medical assistants to take a comprehensive course /exam, approved by CDPH, to perform x-rays on specialized podiatric x-ray equipment with built in safety features, specific to the foot and ankle. This bill will enable our doctors to have more narrow, and specialized training for their desired fields.

2) *Issue this bill is addressing.* The only types of x-ray technicians authorized to perform x-rays of the foot in a doctor of podiatric medicine's office is a full-scope certified radiologic technician, or a limited permit x-ray technician in either the "extremities" category, or the "leg-podiatric" category. However, according to the RHB, there are currently no approved leg-podiatric training schools. Going through the list of approved "limited permit" x-ray technician schools on the RHB's website, each of the approved programs teaches a combined course in the categories of "chest," "extremities, and "torso-skeletal," with one approved school also adding "skull" to the other three categories. All of these programs are generally one-year long, with many more hours than the required minimum in regulations, as they are covering multiple permit categories, and often include a certificate in medical assisting. According to the author and sponsor, if a person chooses to obtain one of these more extensive limited permits, such as in the extremity category, their qualifications will far exceed what is necessary to work in a podiatric office, which is limited to the foot and ankle. Therefore, they will end up choosing to work for a full-scope health care facility that allows them to x-ray more than just the foot and ankle.

The author and sponsor state that this has left a dire shortage of individuals available to assist in performing x-rays in podiatric offices, which means x-rays are often not being performed in these offices and patients have to be referred to outside centers, or other inferior modalities are employed. Given the relatively small number of x-rays, podiatric offices don't need full time certified radiologic technicians, but someone like a medical assistant who is trained and qualified to assist in radiography and can also perform other tasks as necessary.

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

According to the Senate Appropriations Committee:

- CDPH estimates costs between $275,500 to $425,000 (General Fund) to promulgate regulations regarding the requirements of the new permit and to configure the existing licensing database to accept a new permit type.
- PMB indicates no fiscal impact.

SUPPORT: (Verified 8/22/22)

California Podiatric Medical Association (source)
Podiatric Medical Board of California

OPPOSITION: (Verified 8/22/22)

California Society of Radiological Technologists

ARGUMENTS IN SUPPORT: This bill is sponsored by the California Podiatric Medical Association (CPMA), which states that the practice of modern podiatric medicine commonly involves the use of plain x-rays, which very frequently requires an immediate read of these images. CPMA states that approximately 20% of patients require an x-ray in a day. Many common pathologies, including trauma, infection, pre- and post-surgical, all require an immediate x-ray reading to determine proper treatment. CPMA states that due to the reality of time management in a typical podiatric practice, it is difficult or impossible for podiatrists to take their own x-rays, and seek assistance from individuals to perform the in-office x-ray, similar to a dental assistant performing dental x-rays. Additionally, CPMA states that the x-ray equipment used in a podiatrist's office, like a dental x-ray, are "low dose" x-ray tubes, mounted on standing platforms, providing the podiatrist with weight bearing images. Apart from fractures, nearly all other aspects of podiatric evaluation rely on weight bearing images, and it is not

appropriate to use full size table unites (which are common in most other imaging centers) for the vast majority of podiatric care. To accommodate this practice, a podiatric-specific limited x-ray permit category, known as “leg-podiatric,” was made available, allowing podiatric medical assistance to become certified. Unfortunately, this existing process has become untenable, as there are currently no schools in California offering courses specific to leg-podiatry. To alleviate the existing barriers to education and to accommodate the specialized podiatric setting, this bill creates a practical pathway for individuals to take a comprehensive course, jointly certified by the RHM and the PMB, that will provide them with the skills and training necessary to take the appropriate exam, receive a permit, and safely perform x-rays with specialized podiatric x-ray equipment specific to the foot and ankle. The PMB also supports this bill, stating that it will allow their licensees to improve the podiatric medical care provided to patients in California.

ARGUMENTS IN OPPOSITION: The California Society of Radiologic Technologists (CSRT) submitted a letter of opposition to the previous version of this bill that would have granted the BPM the ability to issue a permit in leg podiatric radiography. While that has since been amended to instead require the permit to be issued by CDPH, CSRT continues to have concerns, including ensuring the education is provided by an accredited school, that lab training be provided by a licensed physician or a radiologic technician/technologist, and that the exam be provided by CDPH.

ASSEMBLY FLOOR: 76-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Vincent D. Marchand / HEALTH / (916) 651-4111
8/23/22 15:03:13

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

SENATE RULES COMMITTEE AB 1713
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1713
Author: Boerner Horvath (D)
Amended: 3/21/22 in Assembly
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 15-2, 6/28/22
AYES: Newman, Bates, Allen, Archuleta, Becker, Cortese, Dodd, Hertzberg, Limón, McGuire, Min, Rubio, Skinner, Wieckowski, Wilk
NOES: Dahle, Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 49-20, 5/25/22 - See last page for vote

SUBJECT: Vehicles: required stops: bicycles

SOURCE: Author

DIGEST: This bill permits a person, 18 years of age or older, to treat stop signs as yield signs when riding a bicycle under certain conditions.

ANALYSIS:

Existing law:

1) Provides that a bicyclist has all the rights and is subject to all laws applicable to drivers of motor vehicles, including stopping at stop lights and stop signs.

2) Requires a driver of a vehicle to stop at the marked limit line for a red light or a stop sign, and allows a driver to proceed with a right hand turn or left hand turn from a one-way street onto a one-way street after stopping, if no vehicles or pedestrians have approached or are approaching the intersection.

3) Requires a driver of a vehicle to obey all official signs and signals, as defined.

4) Requires all pedestrians to obey all official signs and signals, as defined.

5) Requires a vehicle approaching a "yield right-of-way" sign to yield the right-of-way to any vehicles which have entered the intersection, which have entered the intersection, or which are approaching the intersection, and to continue to yield the right-of-way until they can proceed with reasonable safety.

This bill:

1) Requires a person who is 18 years of age or older riding a bicycle upon a two-lane highway when approaching a stop sign at the entrance of an intersection, with another roadway with two or fewer lanes, where stop signs are erected upon all approaches, to yield the right-of-way to any vehicles that have either stopped at or entered the intersection, or that are approaching on the intersecting highway close enough to constitute an immediate hazard, and to pedestrians, as specified, and continue to yield the right-of-way to those vehicles and pedestrians until reasonably safe to proceed.

2) Requires other vehicles to yield the right-of-way to a bicycle that, having yielded as prescribed, has entered the intersection.

3) Provides that the changes made by this bill shall not affect the liability of a driver of a motor vehicle as a result of the driver's negligent or wrongful act or omission in the operation of a motor vehicle.

4) Provides that a bicyclist under 18 that failed to stop at a stop sign shall receive a warning ticket for their first violation.

5) Requires California Highway Patrol (CHP) report to the Legislature on January 1, 2028, on the safety effects of this bill.

6) Repeals the provisions of this bill on January 1, 2029.

Comments

1) *Purpose*. According to the author, "we must do a better job in improving a cyclist's safety at stop signs. This pandemic has resulted in a significant increase of residents opting for bicycling whether for recreation, commuting to work, or getting their shopping done. As ridership continues to increase, it is imperative we make stops at intersections safer for bicyclists. Yielding is already law in California. AB 1713 uses this common understanding of a yield sign to allow bicyclists, 18 year of age or older, approaching an intersection with a stop sign to slow down, evaluate the traffic flow, and yield to any cars and pedestrians already at the intersection. If it is safe to do so, bicyclists can

then proceed through the intersection without making a complete stop. Rolling through a stop sign is illegal now and would continue to be illegal under AB 1713. Rolling through a stop sign is not yielding."

2) *The "Idaho stop*." In the state of Idaho, a bicyclist who approaches a stop sign is permitted to treat the stop sign as a yield sign, to treat a traffic signal as a stop sign when no other traffic is present, and to treat the traffic signal as a yield sign when making a right turn. Idaho codified this rule of the road back in 1982 and it has lived infamously as the "Idaho stop." Other states have followed Idaho's example and codified ideations of the "Idaho stop." In 2017, Delaware changed its laws to allow a bicyclist travelling on a one-lane or two-lane road to treat a stop sign as a yield sign, known colloquially as the "Delaware yield." More recently, Arkansas, Oregon and Washington have adopted rules similar to the "Idaho stop" or the "Delaware yield."

   After Idaho adopted the law, bicyclist injuries from traffic crashes declined by 14.5% the following year. In Delaware, traffic crashes involving bicyclists at stop sign intersections fell by 23% in the 30 months after the law's passage, compared to the previous 30 months.

   However, in California, existing law requires any vehicle, including a bicycle that approaches an intersection with a stop sign, to make a complete stop before entering the intersection. In California, bicyclists are required to abide by all vehicle rules of the road. AB 1713 attempts to increase bicyclist safety in intersections by allowing them to treat the stop sign as a yield sign, aligning the state with Idaho and Delaware.

3) *Take Two*. In 2021, AB 122 (Boerner Horvath), which was substantially similar to AB 1713, was vetoed by Governor Newsom. The veto message stated in part, "while I share the author's intent to increase bicyclist safety, I am concerned this bill will have the opposite effect. The approach in AB 122 may be especially concerning for children, who may not know how to judge vehicle speeds or exercise the necessary caution to yield to traffic when appropriate."

   To address concerns raised by the Governor, AB 1713 only authorizes cyclists over 18 to treat stop signs as a yield signs. Consequently, those under the age of 18 who treat a stop sign as a yield sign will potentially face a $238 ticket from law enforcement. Law enforcement will be required to distinguish the age of a cyclist when enforcing the law. Additionally, AB 1713 is narrower than AB 122 as a cyclist may only yield at a stop sign if they are on a two lane road approaching an intersection with stop signs at every intersection. Delaware's

law only applied to two lane roads, but applied at any stop sign regardless of whether there was a stop sign at every intersection.

4) *Bicyclist habits and safety*. The author contends that changing the law to remove the requirement for cyclists to stop at stop signs recognizes the behavior of cyclists today. Specifically, that when a bicyclists stops for a stop sign they lose their momentum going forward. This contention is supported by research conducted at DePaul University, where it observed the behavior of nearly 900 cyclists in Chicago, only 4% of cyclists come to a full stop at four-way stops. The report also found that 65% of cyclists stop at traffic lights and then proceed through them, regardless of the light, if there is no cross traffic, and that 66% of cyclists yield at stop signs when cross traffic is present. However, in California bicyclists must abide by the rules of the road followed by motorists. Thus, when a bicyclists fails to stop, they break the law.

   According to the National Highway Traffic Safety Administration, from 2011 to 2020, bicyclist and other cyclist fatalities increased by 38% from 682 in 2011 to 938 in 2020. In 2020, 26% of bicyclist and other cyclist fatalities occurred at intersections.

   According to the CHP, since 2015, a total of 3,543 crashes have occurred involving bicycles at an intersection, in which the primary crash factor and cause were failure to stop at a stop sign. In 25 of the 30 crashes (83 percent) in which a fatal injury was sustained, the investigation determined the bicyclist was at fault for failure to stop at a stop sign. In 1,995 of the 3,188 crashes (63 percent) that resulted in injuries, the investigation determined the bicyclist was at fault for failure to stop at a stop sign. This data illustrates that when bicyclists fail to stop at a stop sign and comply with the rules of the road, accidents occur.

5) *Concerns*. Although AB 1713 attempts to align California law with current cycling habits and increase safety, the bill could have the opposite affect and increase bicycling accidents at intersections. If bicyclists have the ability to bend this rule of the road it may lead to bicyclists ignoring other rules. Similarly, because bicyclists are currently required to follow all of the existing rules that motorists need to follow, any one motorist not being privy to this change in the law could lead to potential dangers for the bicyclist. AB 1713 does not provide any public information campaigning to inform California motorists and bicyclists of this change in the law. Moreover, the data from both

Idaho and Delaware are not necessarily applicable to California, as California has more motorists and bicyclists.

6) *Opposition*. The California Association of Highway Patrolmen writes in opposition to this bill stating, "There is a lot going on at intersections and we feel that allowing bicyclists to simply yield rather than stop will create a public safety risk." Similarly the California Coalition for Children's Safety and Health writes in opposition stating, this "bill continues to create unsafe bicycle riding behaviors and will lead to more bicycle crash fatalities, including children and teens. The bill would create opportunities for children and teens to learn dangerous bicycle riding behaviors as they observe adults not stopping at stop signs."

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

SUPPORT: (Verified 7/29/22)

California Association of Bicycling Organizations
City of Alameda
City of Berkeley
City of Santa Barbara
CivicWell
Lake Tahoe Bicycle Coalition
North Westwood Neighborhood Council
Sacramento Trailnet
Streets for All
Transportation Agency for Monterey County

OPPOSITION: (Verified 7/29/22)

California Association of Highway Patrolmen
California Coalition for Children's Safety and Health

ASSEMBLY FLOOR: 49-20, 5/25/22
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cunningham, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NOES: Bigelow, Chen, Choi, Cooley, Cooper, Megan Dahle, Davies, Flora, Fong, Gallagher, Lackey, Mathis, Nguyen, Patterson, Salas, Seyarto, Smith, Valladares, Voepel, Waldron

NO VOTE RECORDED: Arambula, Berman, Gray, Muratsuchi, O'Donnell, Ramos, Rodriguez, Blanca Rubio, Villapudua

Prepared by: Katie Bonin / TRANS. / (916) 651-4121
8/3/22 14:26:40

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

SENATE RULES COMMITTEE AB 1715
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1715
Author: Muratsuchi (D)
Amended: 8/23/22 in Senate
Vote: 21

SENATE MILITARY & VETERANS COMMITTEE: 5-0, 6/14/22
AYES: Newman, Grove, Eggman, Melendez, Umberg
NO VOTE RECORDED: Archuleta, Roth

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 61-0, 5/5/22 (Consent) - See last page for vote

SUBJECT: Space Force

SOURCE: Author

DIGEST: This bill amends certain provisions in state law to include the United States Space Force among the lists of Armed Forces entities.

Senate Floor Amendments of 8/23/22 are clarifying and technical in nature and address chaptering out issues.

ANALYSIS: Existing law defines "Armed Forces" as including the United States Army, Navy, Air Force, Marine Corps, and other entities, and defines "veteran" as including members or veterans of those entities, as specified, for various purposes, including the allocation of merit points for civil service hiring practices and for state aid and protections for veterans.

This bill:

1) Amends Section 23450 of the Business and Professions Code to include Space Force in the definition of "veteran".

2) Amends Section 1791 of the Civil Code to include Space Force in the definition of "Member of the Armed Forces".

3) Amends Section 45294 of the Education Code to include Space Force in the definition of "veteran" and "Armed Forces".

4) Amends Section 66010.99 of the Education Code to include Space Force in the definition of "Armed Forces of the United States".

5) Amends Section 66025.8 of the Education Code to include Space Force in the definition of "Armed Forces of the United States".

6) Amends Section 68075 of the Education Code to include Space Force in the definition of "Armed Forces of the United States".

7) Amends Section 76396.3 of the Education Code to include Space Force in the definition of "Armed Forces of the United States".

8) Amends Section 88113 of the Education Code to include Space Force in the definition of "Armed Forces".

9) Amends Section 18540 of the Government Code to include Space Force in the definition of "Armed Forces".

10) Amends Section 37460 of the Government Code to include airman and guardian in the definition of "veteran".

11) Amends Section 260 of the Military and Veterans Code to include Space Force among the lists of Armed Forces entities.

12) Amends Section 400 of the Military and Veterans Code to include Space Force in the definition of "Armed Forces."

13) Amends Section 422 of the Military and Veterans Code to include Space Force among the lists of Armed Forces entities.

14) Amends Section 502.1 of the Military and Veterans Code to include Space Force among the lists of Armed Forces entities.

15) Amends Section 920 of the Military and Veterans Code to include Space Force in the definition of "veteran".

16) Amends Section 1120 of the Military and Veterans Code to include guardian.

17) Amends Section 2695.5 of the Penal Code to include Space Force in the definition of "veteran".

18) Amends Section 2827 of the Public Utilities Code to include Space Force in the definition of "United States Armed Forces base or facility".

19) Amends Section 205.5 of the Revenue and Taxation Code to include Space Force in the definition of "veteran".

Background

On December 20, 2019, the enactment of the United States Space Force Act, and signing of the National Defense Authorization Act, founded The United States Space Force. The US Space Force is the eighth branch of the United States uniformed services, and is organized under the Department of the Air Force.

The US Space Force is the smallest armed service, consisting of 6,434 military personnel and operating 77 spacecraft. In California, the US Space Force is active in Vandenberg Space Force Base as well as Los Angeles Air Force Base. California statute currently does not include the United States Space Force within the definitions and references when pertaining to the Armed Forces, Armed Services, and Veterans. This bill creates conforming and technical revisions to state code that defines which military branches are included in the encompassing terms of Armed Forces, Armed Services, and veteran, for the protections and benefits of members of this newly created military force.

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

According to the Assembly Appropriations Committee:

1) Minor and absorbable costs to the California Military Department and the Department of Veterans Affairs (CalVet) to make necessary updates.

2) Unknown costs, but likely minor, to various state entities to make necessary administrative changes and to provide members of the US Space Force with the existing protections and benefits available to members and veterans of the

Armed Forces. Most members of the US Space Force came from other branches of the armed forces, primarily the US Air Force. Accordingly, the cost of providing additional services is expected to be minor.

SUPPORT: (Verified 8/23/22)

California Manufacturers and Technology Association
Military Services in California
U.S. Department of Defense

OPPOSITION: (Verified 8/23/22)

None received

ARGUMENTS IN SUPPORT: According to the Author, "The United States Space Force is a new branch within the United States Armed Services, organized under the Department of the Air Force. AB 1715 would update the California statute to include Space Force within the definitions and references to the Armed Forces, Armed Services, and Veterans."

ASSEMBLY FLOOR: 61-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Ward, Akilah Weber, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Friedman, Gallagher, Cristina Garcia, Gipson, Levine, McCarty, Medina, Villapudua, Waldron, Wicks

Prepared by: Bill Herms / M.&V.A. / (916) 651-1503
8/24/22 19:33:05

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

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THIRD READING

Bill No: AB 1717
Author: Aguiar-Curry (D)
Amended: 8/24/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 6/13/22
AYES: Cortese, Durazo, Laird, Newman
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 58-11, 5/26/22 - See last page for vote

SUBJECT: Public works: definition

SOURCE: California-Nevada Conference of Operating Engineers

DIGEST: This bill expands the definition of "public works" to include fuel reduction work performed as part of a fire mitigation project, as defined, and require that these projects be subject to prevailing wage requirements.

Senate Floor Amendments of 8/24/22 make the following changes:

1) Clarify that the expansion of "Public Works" to include Fuel Reduction work, as defined, only apply if the following criteria apply: (a) the work must fall within an apprenticeable occupation in the building and construction trades for which an apprenticeship program has been approved; (b) the contract or grants for the project are in excess of $100,000; and (c) the provisions of this bill do not apply to work done on Tribal Lands.

2) Delay implementation of the provisions of AB 1717 until January 1, 2024, and until January 1, 2025, for nonprofit organizations.

3) Incorporate changes from AB 1886 (Cooper) to address chaptering issues.

ANALYSIS:

Existing law:

1) Requires that not less than the general prevailing rate of per diem wages be paid to all workers employed on a "public works" project costing over $1,000 and imposes misdemeanor penalties for violation of this requirement. (Labor Code §1771)

2) Defines "public work" to include, among other things, *construction*, alteration, demolition, installation or repair work done under contract and paid for in whole or in part out of public funds, except work done directly by any public utility company pursuant to an order of the Public Utilities Commission or other public authority**.** [Labor Code §1720(a)]

3) Specifies that for prevailing wage purposes, “construction” includes work performed during the design and preconstruction phases of construction, including, but not limited to, inspection and land surveying work and work performed during the postconstruction phases of construction, including, but not limited to, all cleanup work at the jobsite. [Labor Code §1720(a)]

4) Defines “paid for in whole or in part out of public funds” as, among other things, “Fees, costs, rents, insurance or bond premiums, loans, interest rates, or other obligations normally required in the execution of a contract that are paid, reduced, charged at less than fair market value, waived or forgiven.” (Labor Code §1720(b))

5) 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)

6) Provides that private residential projects built on private property are not subject to the requirements of public works provisions, unless the projects are built pursuant to an agreement with a state agency, redevelopment agency, or local public housing authority. (Labor Code §1720(c)(1))

7) Authorizes the Labor Commissioner, or their designee, to issue civil wage and penalty assessments on a contractor or subcontractor, or both, that fails to pay prevailing wages in connection with a public work. (Labor Code §1741)

This bill:

1) Adds fuel reduction work performed as part of a fire mitigation project to the definition of Public Works.

    a) Fire mitigation project includes, but is not limited to, residential chipping, rural road fuel breaks, fire breaks, and vegetation management.

2) Clarifies that the expansion of "Public Works" to include Fuel Reduction work, as defined, only apply if the following criteria apply:

    a) The work must fall within an apprenticeable occupation in the building and construction trades for which an apprenticeship program has been approved.
    b) The contract or grants for the project are in excess of $100,000.
    c) The provisions of AB 1717 do not apply to work done on Tribal Lands.

3) Delays implementation of the provisions of AB 1717 until January 1, 2024, and until January 1, 2025, for nonprofit organizations.

Comments

Need for this bill? On March 22, 2019, following two of the most devastating years of wildfires in California's history, Governor Newsom issued an Emergency Proclamation directing CalFIRE to take immediate action and implement projects to protect lives and property. This proclamation suspended certain regulations and requirements, to ensure that projects could begin as quickly as possible, to reduce risk.

As California continues to grapple with rapidly accelerating climate change, drought, and longer wildfire seasons, it becomes clear that the state must adjust to a new reality. The 2021 Budget appropriates $200 million from the Greenhouse Gas Reduction Fund *each fiscal year*, for years 2022-23 to 2028-29 for wildfire mitigation projects, in addition to federal funds given to CalFIRE. California is making large state expenditures on these projects and giving every indication that these projects will only expand in number and individual size in the future. Public works and the accompanying prevailing wage laws were designed so that subsidized public projects of a certain size would provide workers with livable wages and safe working conditions.

The concerns of rural districts that many of these projects are headquartered in should be taken seriously; these districts do not have as much infrastructure or public funds with which to fund wildfire mitigation projects. Furthermore, these counties note that other requirements have been waived to ensure that wildfire

mitigation projects are able to start without delay, including environmental and other workforce standards. AB 1644 (Flora), which passed out of the Senate Labor, Public Employment and Retirement Committee earlier this year, specifically exempted particular budget-funded wildfire mitigation projects from workforce standards under the California Jobs Plan Act of 2021 (AB 680, Burke, Chapter 746, Statutes of 2021). To address these concerns, AB 1717 as amended delays implementation for 1 year to allow rural counties to adjust to the new requirements.

As wildfire mitigation projects become more frequent and more permanent, serious discussion must occur on the working conditions and compensation received by workers on these publicly funded projects. AB 1644 (Flora) noted specific programs and included an urgency clause to make sure that in the short-term these projects would be easier to establish. In the longer-term, rural counties and districts will have the time to develop the infrastructure necessary to support these projects, and should adhere to the standards that similar publicly funded projects are subject to.

Related/Prior Legislation

AB 1644 (Flora, 2022) exempts specified wildfire prevention grant programs from increased workforce standards required under the California Jobs Plan Act of 2021. The bill has been sent to the Governor.

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

According to the Senate Appropriations Committee, DIR indicates that it would incur first-year costs of $137,000, and $127,000 annually thereafter, for increased oversight of new public works projects (Labor Enforcement and Compliance Fund).

CalFIRE anticipates unknown, but potentially significant costs, to the extent that it is responsible for ensuring grantees comply with public works law (Greenhouse Gas Reduction Fund).

To the extent that prevailing wage requirements increase costs for grantees and results in fewer acres treated, this bill would result in a cost pressure to fund additional fuel reduction projects (General Fund or Greenhouse Gas Reduction Fund).

SUPPORT: (Verified 8/26/22)

California-Nevada Conference of Operating Engineers (source)
California Conference of Carpenters
California Labor Federation, AFL-CIO
California State Association of Electrical Workers
California State Council of Laborers
California Teamsters Public Affairs Council
Coalition of California Utility Employees
Engineering & Utility Contractors Association Dba United Contractors
Fresno, Madera, Kings and Tulare Building & Construction Trades Council, AFL-CIO
International Association of Sheet Metal, Air, Rail and Transportation Workers
International Union of Operating Engineers, Local 12
Napa-Solano Labor Council, AFL-CIO
North Bay Labor Council
San Francisco Building and Construction Trades Council
San Joaquin Building Trades Council
Southern California Contractors Association
Stanislaus & Tuolumne Counties Central Labor Council
State Building & Construction Trades Council of California
United Contractors
Watershed Research and Training Center

OPPOSITION: (Verified 8/26/22)

Associated California Loggers
California Forestry Association
California Licensed Foresters Association
County of Del Norte
El Dorado County Water Agency
El Dorado Irrigation District
Humboldt Bay Municipal Water District
Mendocino County Fire Safe Council
Rural County Representatives of California
San Luis Obispo County Fire Safe Council
Shasta County Board of Supervisors
One Individual

ARGUMENTS IN SUPPORT: The California-Nevada Conference of Operating Engineers, the sponsor of this bill, writes in support:

Catastrophic wildfires have unfortunately become an annual occurrence in the State of California. In 2021 alone, the State saw 8,786 active wildfires that burned approximately 2,568,941 acres of land, destroyed 3,629 structures, and most devastating of all took the lives of 3 California citizens.

While wildfire mitigation is often a\talked about as a mechanism to protect homes from wildfires, wildfire mitigation is also a critical component of protecting various public works, including transportation infrastructure, public schools, and public buildings. In this sense, wildfire mitigation can and should be seen as a 'maintenance activity' that is heavily needed to ensure the safety and functionality of existing public works.

Additionally, given the importance of these projects to communities and the regular occurrence that they will continue to play in day-to-day life, the state's investment in wildfire mitigation work presents an opportunity for apprentices to learn a trade, while also making a living wage and contributing in a positive manner to the health and safety of their communities.

ARGUMENTS IN OPPOSITION: The Rural County Representatives of California write in opposition:

Over the past several years, California's wildfire seasons have grown both longer and more severe each year, as climate change has exacerbated the decades-overdue need for better vegetation management and fuels treatment strategies around communities in the wildland urban interface (WUI). Many of these communities are socioeconomically disadvantaged, with all 26 of California's economically disadvantaged counties containing lands designated as high or very high fire hazard severity zones, and depend on public funding such as grants from the Greenhouse Gas Reduction Fund (GGRF) to implement community fuels treatment and fire mitigation projects to safeguard their communities from wildfires. One of the most impacted counties is Lake County, which suffers from disastrous wildfire events almost annually, yet has precious little resources to dedicate to fire mitigation efforts.

The ability to utilize GGRF and other public dollars through programs like California Climate Investments has afforded rural local governments the ability to undertake such vital projects as clearing dead and dying trees from critical infrastructure and residential properties during California's recent tree mortality epidemic, as well as completing community wildfire mitigation projects in concert with local fire prevention organizations to help safeguard residents from the impacts of devastating wildfires. Even still, many rural counties in socioeconomically disadvantaged areas could benefit from

assistance accessing public, competitive grant funding to help initiate fire mitigation projects because they lack the staffing and financial ability to compete with more robustly resourced counties.

As fire-prone counties continue to seek ways to maximize their ability to safeguard their residents from the devastation of wildfires, it seems ill-timed to introduce additional barriers to implementation of fire mitigation projects in communities that desperately need public funds to complete these projects. AB 1717 would increase the cost of crucial fire mitigation projects around communities and critical infrastructure by including these projects in the definition of "public works," thus subjecting them to prevailing wage. RCRC has long advocated for increased training and development of a local forest management and wildfire prevention workforce. It is vital that the state focus on creating a more robust forest resilience workforce in rural, disadvantaged communities before pursuing a measure like AB 1717, which would simply drive up costs of the scarce forest workforce currently in place while shrinking the pace and scale of vegetation treatment projects on the ground.

ASSEMBLY FLOOR: 58-11, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Cooley, Cooper, Daly, Davies, Flora, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mathis, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Cunningham, Megan Dahle, Fong, Gallagher, Kiley, Nguyen, Seyarto, Smith, Voepel, Waldron
NO VOTE RECORDED: Berman, Choi, Lackey, Mayes, McCarty, O'Donnell, Patterson, Valladares, Villapudua

Prepared by: Jake Ferrera / L., P.E. & R. / (916) 651-1556
8/26/22 15:36:13

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

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THIRD READING

Bill No: AB 1719
Author: Ward (D)
Amended: 4/18/22 in Assembly
Vote: 21

SENATE HOUSING COMMITTEE: 8-1, 6/13/22
AYES: Wiener, Bates, Caballero, Cortese, McGuire, Skinner, Umberg, Wieckowski
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 56-16, 5/23/22 - See last page for vote

SUBJECT: Housing: Community College Faculty and Employee Housing Act of 2022

SOURCE: San Diego Community College District

DIGEST: This bill establishes the Community College Faculty and Employee Housing Act of 2022.

ANALYSIS:

Existing law:

1) Defines, pursuant to the Teacher Housing Act of 2016, "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.

2) Creates, pursuant to the Teacher Housing Act of 2016, 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.

3) Authorizes, pursuant to the Teacher Housing Act of 2016, local public employees and other members of the public to occupy housing authorized by this Act.

4) 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.

5) 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) Establishes the Community College Faculty and Employee Housing Act of 2022, which provides that a community college district may establish and implement programs that address the housing needs of community college district employees and faculty who face challenges in securing affordable housing.

2) Creates a state policy supporting housing for community college employees and faculty as described in Section 42(g)(9) of the Internal Revenue Code to allow the following:

    a) A community college district and a developer in receipt of local or state funds or tax credits designated for affordable rental housing to restrict occupancy to community college district employees or faculty on land owned by the community college district; and

    b) A developer in receipt of tax credits designated for affordable rental housing to retain the right to prioritize and restrict occupancy on land owned by

community college district to employees and faculty so long as that housing does not violate any other applicable laws.

Background

In 2016, SB 1413 (Leno, Chapter 732, Statutes of 2016) 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. AB 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.

AB 3308 (Gabriel, Chapter 199, Statutes of 2020) further amended the Act to make clear that school districts could still access LIHTC if the school district restricts occupancy of housing constructed on their land to their own employees, but at their discretion offers the housing to other public employees.

Comments

1) *Low Income Housing Tax Credits (LIHTC).* 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

(AMI). 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 (1) with special needs, (2) 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 (3) who are involved in artistic or literary activities.

2) *Community College Faculty and Employee Housing Act of 2022*. This bill gives community college faculty and employees the same benefits as allowed for school districts under the Act. The sponsor of the bill, the San Diego Community College District has land it plans to develop as housing for its faculty and employees and wishes to access LIHTC. This bill does not provide any funding or create any land use enhancements to facilitate the production of housing. Rather, this bill allows a community college district and a developer to use state or local funds or LIHTC to construct affordable rental housing on land owned by the community college district and restrict occupancy to community college district employees or faculty.

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

According to the Senate Appropriations Committee:

- Unknown cost pressures by authorizing a new category of affordable housing that would qualify for an award of Low Income Housing Tax Credits (LIHTCs), thereby increasing demand on an oversubscribed funding source, and potentially displacing credit allocations for other affordable housing projects. The State Treasurer’s Office (STO) indicates that LIHTCs are oversubscribed by a 3:1 ratio. (General Fund)

- Unknown potential expenditure of community college district revenues to partially finance the remaining costs of faculty and district employee housing.

This funding could also be financed through a third party developer, equity markets, or other proceeds from benefactors. (various funding sources, including locally-approved bond funds)

SUPPORT: (Verified 8/11/22)

San Diego Community College District (source)
American Federation of State, County, and Municipal Employees, AFL-CIO
California Federation of Teachers AFL-CIO
California School Employees Association
Community College Facility Coalition
Community College League of California
Meta
Peralta Community College District
San Jose-Evergreen Community College District

OPPOSITION: (Verified 8/11/22)

State Building & Construction Trades Council of California

ARGUMENTS IN SUPPORT: According to the author, "A 2019 study found that of the California Community College students, 60% were housing insecure in the previous year, and 19% were unhoused in the previous year. Community College Districts need new authority to provide affordable housing to those that work and study in their districts. AB 1719 will extends the flexibility afforded to K-12 school districts under current law to community college districts seeking to provide affordable housing options to district faculty, staff, and foster you. This bill will allow community college districts with the appropriate existing land and resources to be active members in addressing California's exasperated housing crisis."

ARGUMENTS IN OPPOSITION: The State Building & Construction Trades Council of California are opposed because the bill does not require prevailing wages or use of a skilled and trained workforce.

ASSEMBLY FLOOR: 56-16, 5/23/22
AYES: Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas,

Santiago, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Mathis, Nguyen, Patterson, Seyarto, Smith, Voepel, Waldron
NO VOTE RECORDED: Aguiar-Curry, Berman, Mia Bonta, Lackey, O'Donnell, Blanca Rubio

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
8/13/22 10:41:03

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

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THIRD READING

Bill No: AB 1720
Author: Holden (D)
Amended: 8/22/22 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 3-1, 6/20/22
AYES: Hurtado, Cortese, Pan
NOES: Jones
NO VOTE RECORDED: Kamlager

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 6/28/22
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 50-17, 5/26/22 - See last page for vote

SUBJECT: Care facilities: criminal background checks

SOURCE: East Bay Community Law Center

DIGEST: This bill authorizes the California Department of Social Services (CDSS) to process a simplified criminal record exemption for an individual seeking a license to operate, be employed by, or otherwise have contact with clients in a community care facility or be registered as a home care aide, if that individual meets specified criteria. This bill removes the requirement that an individual sign a declaration under penalty of perjury regarding any prior criminal convictions and prohibits CDSS from requiring an individual to disclose their criminal history information prior to the receipt of live scan results.

Senate Floor Amendments of 8/22/22 incorporate changes to Sections 1522, 1568.09, 1569.17, 1596.871, and 1796.24 of the Health and Safety Code proposed by SB 1093 (Hurtado) to resolve conflicts.

ANALYSIS:

Existing law:

1) Establishes the California Community Care Facilities Act, which provides regulatory structure for a coordinated and comprehensive statewide system of care for individuals with mental illnesses, individuals with disabilities, and children and adults who require care or services provided by licensed community care facilities. (HSC §1500 et seq.)

2) Requires an individual to obtain either a criminal record clearance or a criminal record exemption from CDSS before their initial presence in a community care facility, residential care facility for persons with chronic life-threatening illness, residential care facility for the elderly, or child day care facility, as specified. (HSC §1522 et seq.; HSC §1568.09 et seq.; HSC §1569.17 et seq.; HSC §1596.871 et seq.)

3) Defines "registered home care aide" as an affiliated home care aide or independent home care aide, 18 years of age or older, who is listed on the home care aide registry. (HSC §1796.12(o))

4) Requires an individual to obtain either a criminal record clearance or a criminal record exemption from CDSS before they may be listed on the home care aide registry. (HSC §1796.24))

5) Allows the Department of Justice (DOJ) to provide subsequent state or federal arrest or disposition notification to any entity authorized by state or federal law to receive state or federal summary criminal history information as the result of an application for licensing, employment, certification, or approval, as provided. (Penal Code §11105.2(a))

6) Requires DOJ to notify CDSS within 14 calendar days of a person’s criminal record information and, if no criminal information has been recorded, provide a statement of that fact. (HSC §1522(c)(2))

This bill:

1) Removes the requirement that an individual seeking a license to operate, be employed by, or otherwise have contact with clients in a community care facility, including a residential care facility for persons with chronic, life-threatening illness, a residential care facility for the elderly, or a child daycare facility, sign a declaration under penalty of perjury regarding any prior criminal convictions. Retains the requirement an individual be fingerprinted in order to

obtain either a criminal record clearance or an exemption from CDSS prior to employment, residence, or initial presence in a community care facility.

2) Removes the requirement that a person initiating a background examination to be a registered home care aide sign a declaration under penalty of perjury regarding any prior criminal convictions. Retains the requirement that a person initiating a background examination to be a registered home care aide be fingerprinted in order to obtain either a criminal record clearance or an exemption from CDSS prior to becoming a registered home care aide.

3) Prohibits CDSS from requiring an individual described in 1) and 2), above, to disclose their criminal history information prior to the receipt of live scan results.

4) Allows CDSS to process a simplified criminal record exemption for an individual described in 1) and 2), above, excluding an individual applying to operate a foster family home, certified family home, or be a resource family, as provided, if the individual meets all of the following criteria:

   a) The individual has not been convicted of a violent crime.
   b) The individual has not been convicted of a crime within the last five years.
   c) The individual has not been convicted of a felony within the last 10 years.
   d) The individual has five or fewer misdemeanor convictions.
   e) The individual has no more than one felony conviction.
   f) The individual has not been convicted of a crime for which CDSS is prohibited from granting an exemption.

5) Allows CDSS to require, in its discretion, an individual who is otherwise eligible for a simplified exemption described in 4), above, to complete the standard exemption process if CDSS determines that doing so will protect the health and safety of any person who is a client of a community care facility.

6) States that a simplified criminal record exemption does not relieve the person from compliance with other applicable background check provisions.

7) Makes other technical and conforming changes.

Background

Community Care Licensing Division (CCLD). CDSS's CCLD licenses and oversees community care facilities—including child care facilities and residential care facilities for the elderly—throughout California. These facilities typically provide non-medical care and supervision for children and adults in need,

including individuals with disabilities, older adults in residential care, and children in child day care facilities. As of June 2021, there are 67,622 licensed community care facilities in the state with total capacity to serve approximately 1.4 million Californians.

Home Care Aide Registry. The Home Care Services Bureau (HCSB), under CDSS, is responsible for licensing home care organizations, including processing applications, receiving and responding to complaints, and conducting unannounced visits to ensure compliance. HCSB is also responsible for maintaining the Home Care Aide Registry, which is a public online registry for home care aides who have been background checked. The Home Care Aide Registry is intended to promote consumer protection for older adults and individuals with disabilities who hire private aides to come into their homes and provide assistance with activities of daily living.

Criminal Background Checks. To protect the vulnerable populations served by CCLD-licensed facilities, state law requires all applicants, licensees, adult residents, volunteers under certain conditions, and employees of licensed facilities who have contact with clients to be subject to a background check. These background checks are conducted by DOJ and used to determine whether individuals should be allowed to be present in a licensed facility. Registered home care aides are also subject to a background check. If an individual has no history of arrests and convictions, a clearance notice is sent to CDSS. If an individual has a criminal history, a separate process will result in either a denial or exemption.

Criminal Record Exemptions. An exemption is a CDSS-authorized written document that "exempts" the individual from the requirement of having a criminal record clearance. CDSS is prohibited by law from granting exemptions to individuals convicted of certain “non-exemptible” crimes. Currently, there are 60 non-exemptible crimes, including murder, rape, torture, kidnapping, and crimes requiring sex offender registration. If an individual is convicted of a non-exemptible crime, that individual cannot work in any licensed facility or for a health care organization, and an individual’s application will be denied or the license revoked based on the conviction.

When considering an exemption for individuals who have committed crimes that are exemptible, CDSS is required to consider a number of factors, including, but not limited to: the nature of the crime, including whether it involved violence; the period of time since the crime was committed and number of offenses; the circumstances surrounding the crime; activities since conviction, such as employment or participation in therapy or education; pardons granted; character

references; a certificate of rehabilitation from a superior court; and, evidence of honesty and truthfulness. CDSS also has the authority to grant a criminal record exemption that places conditions on the individual's continued licensure and employment or presence in a licensed facility.

Standard and simplified exemption process. Regulations (22 CCR 80019.1) establish criteria for CDSS to grant a criminal record exemption using either a standard exemption process or a simplified exemption process. Pursuant to regulations, CDSS may consider granting a standard exemption for an individual who has not been convicted of any non-exemptible crime or violent felony, as defined, and who provides CDSS with substantial and convincing evidence of good character. Regulations further establish criteria for issuing a standard exemption based on the type of crime and length of time that has passed since the completion of incarceration, probation, or parole.

Under the simplified exemption process, CDSS is required to consider granting, but is not required to process, a simplified criminal record exemption only if the individual meets all of the following criteria:

- Does not have a demonstrated pattern of criminal activity;
- Has one or more convictions arising from a single incident of criminal conduct;
- Each conviction is a misdemeanor and is for a crime that is nonviolent and does not pose a risk of harm to an individual; and
- It has been at least five consecutive years since the date of the conviction.

CDSS is allowed is require an individual who is otherwise eligible for a simplified exemption to go through the standard exemption process if CDSS determines such action will help protect the health and safety of clients.

Comments

Purpose of this bill. According to the author, "the Department of Social Services (CDSS) requires any applicant who has ever been convicted of any crime, other than a minor traffic violation, to obtain a criminal record 'exemption' from CDSS before they can work in a facility (i.e. community care, residential, elderly, child care). CDSS can and does deny exemptions based on conviction, even if the conviction is very old or unrelated to caregivers' work, and even when applicants have shown success as caregivers. While ensuring the safety of the young and elderly should always be of utmost importance, the system CDSS uses is inefficient and has duplicative processes that can disadvantage good applicants, ultimately negatively affecting the caregiving system and those who depend on it. These overly burdensome criminal record screening rules, given the

disproportionate rate of arrests and low-level criminal convictions in communities of color, cause people of color to have a difficult task in advancing in these caregiver roles without the proper licensing. The bill removes a duplicative process by prohibiting CDSS from requiring applicants to disclose any information regarding their criminal history as a condition of employment."

Related/Prior Legislation

AB 1608 (Holden, 2019) would have prohibited CDSS from requiring certain individuals subject to the criminal background check process to self-disclose their criminal history information, would have required CDSS to annually post certain data related to criminal record clearance and exemption approvals and denials on its website, and would have prohibited certain conduct from serving as the basis of a suspension or revocation of a license to operate a community care facility, or as the basis to prohibit an individual from serving in certain administrative capacities over a community care facility, unless certain circumstances exist. AB 1608 was not heard by the Senate Human Services Committee.

AB 3039 (Holden, 2018) would have made numerous changes to the criminal background check process for certain community care facilities, home care aide registry applicants, and home care organizations. AB 3039 was held in the Assembly Appropriations Committee.

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

SUPPORT: (Verified 8/23/22)

East Bay Community Law Center (source)
A New Way of Life Reentry Project
Alameda County Public Defender's Office
Alliance for Boys and Men of Color
California Public Defenders Association
Californians for Safety and Justice
Community Legal Services in East Palo Alto
East Bay Community Law Center
East Bay Family Defenders
Ella Baker Center for Human Rights
Friends Committee on Legislation of California
Hillsides
Initiate Justice
Legal Aid at Work
Legal Services for Prisoner with Children

Mental Health Advocacy Services
National Association of Social Workers, California Chapter
National Employment Law Project
Pillars of the Community
Roberts Enterprise Development Fund
Root and Rebound
Rubicon Programs
Sister Warriors Freedom Coalition
Starting Over, Inc.

OPPOSITION: (Verified 8/23/22)

None received

ASSEMBLY FLOOR: 50-17, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Mayes, McCarty, Medina, Mullin, Nazarian, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, Stone, Ting, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cooper, Cunningham, Megan Dahle, Flora, Fong, Gallagher, Irwin, Kiley, Mathis, Nguyen, Petrie-Norris, Seyarto, Smith, Valladares
NO VOTE RECORDED: Berman, Boerner Horvath, Davies, Lackey, Maienschein, Muratsuchi, O'Donnell, Patterson, Rodriguez, Salas, Voepel

Prepared by: Elizabeth Schmitt / HUMAN S. / (916) 651-1524
8/23/22 13:23:13

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

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THIRD READING

Bill No: AB 1735
Author: Bryan (D), et al.
Amended: 8/22/22 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 4-0, 6/20/22
AYES: Hurtado, Jones, Cortese, Pan
NO VOTE RECORDED: Kamlager

SENATE JUDICIARY COMMITTEE: 10-0, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, Jones, McGuire, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 69-0, 5/23/22 - See last page for vote

SUBJECT: Foster care: rights

SOURCE: Children's Law Center of California

DIGEST: This bill requires, for foster children and youth, the child's case plan, transitional independent living plan (TILP), and court report be provided to the child in their primary language. This bill adds the right to have these documents in their primary language to the Foster Youth Bill of Rights and requires the Foster Youth Bill of Rights be provided to the child in the primary language, as provided.

Senate Floor Amendments of 8/22/22 restructure the bill's provisions to increase clarity and ease with which printed copies of the updated Foster Youth Bill of Rights may be printed. Additionally, Welfare and Institutions Code section 16501.1 was struck and redrafted so that the existing law provisions could be updated to reflect changes made to the code section through the 2022 human services budget trailer bill.

ANALYSIS:

Existing law:

1) Establishes a system of juvenile dependency for children for specified reasons including, but not limited to, children who are, or are at risk of, being physically, sexually, or emotionally abused, being neglected or being exploited, to ensure their safety, protection, and physical and emotional well-being, as specified. *(WIC 300 et seq.)*

2) States that the purpose of foster care law is to provide maximum safety and protection for children who are currently being physically, sexually, or emotionally abused, neglected or exploited, and to ensure the safety, protection, and physical and emotional well-being of children who are at risk of harm. *(WIC 300.2)*

3) Declares the intent of the Legislature to, whenever possible, preserve and strengthen a child's family ties and, when a child must be removed from the physical custody of his or her parents, to give preferential consideration to placement with relatives. States the intent of the Legislature to reaffirm its commitment to children, who are in out-of-home placement, to live in the least restrictive family setting and as close to the child's family as possible, as specified. Further states the intent of the Legislature that all children live with a committed, permanent, nurturing family, and states that services and supports should be tailored to meet the specific needs of the individual child and family being served, as specified. (*WIC 16000*)

4) Requires out-of-home placement of a child in foster care to be based upon selection of a safe setting that is the least restrictive family setting that promotes normal childhood experiences, and the most appropriate setting that meets the child's individual needs, as specified. Further requires the selection of placement to consider, in order of priority, placement with: relatives, nonrelative extended family members, and tribal members; foster family homes, resource families, and approved or certified homes of foster family agencies; followed by intensive services for foster care homes, multidimensional treatment foster care homes, or therapeutic foster care homes; group care placements in the order of short-term residential therapeutic programs, group homes, community treatment facilities, and out-of-state residential treatment, as specified. *(WIC 16501.1(d)(1))*

5) Mandates that at least once every six months, at the time of a regularly scheduled visit with the youth, and at each placement change, a social worker or probation officer inform the youth, the caregiver, and the child and family team of the youth's rights, provide a written copy of the rights to the youth in an age and developmentally appropriate manner, and document in the case plan that the youth has been informed of their rights and has been provided with a written copy of their rights. (*WIC 16501.1(g)(4))*

6) Enumerates 41 separate rights of minors and nonminors in foster care, including but not limited to, the right to: live in a safe, healthy, and comfortable home where they are treated with respect; be free from physical, sexual, emotional, or other abuse, corporal punishment, or exploitation; review their own case plan and plan for permanent placement if they are 10 years of age or older, and receive information about their out-of-home placement and case plan, including being told of changes to the plan; and, be provided with contact information for the Ombudsperson at the time of each placement, and be free from threats or punishment for making complaints. *(WIC 16001.9)*

7) Establishes the Office of the Foster Care Ombudsperson (OFCO) as an autonomous entity within California Department of Social Services (CDSS) for the purpose of providing children who are placed in foster care with a means to resolve issues related to their care, placement, or services. *(WIC 16161)*

8) Requires the OFCO to among other things, disseminate information, and provide training and technical assistance to foster youth and relevant parties on the rights of children and youth in foster care, reasonable and prudent parent standards, and the services provided by the Office. *(WIC 16164)*

9) Establishes the case plan as the foundation and central unifying tool in the child welfare system, and seeks to ensure that the child receives protection and safe and proper care and case management, and that services are provided to the child and parents or other caretakers, as appropriate, in order to improve conditions in the parent's home, to facilitate the safe return of the child to a safe home or the permanent placement of the child, and to address the needs of the child while in foster care. *(WIC 16501.1 et seq.)*

10) Requires the creation of a case plan for foster youth within a specified timeframe after the child is introduced into the foster care system. *(WIC 16501.1(e))*

11) Requires a child who is 12 years of age or older and in permanent placement be given a meaningful opportunity to review their case plan, sign the plan, and receive a copy of the plan. *(WIC 16501.1(g)(13))*

12) Requires the case plan to include, for children who are 16 years or older and nonminor dependents, the Transition to Independent Living Plan (TILP), a description of programs and services that will help the child prepare for the transition from foster care to successful adulthood, and whether the youth has an in progress application pending for Supplemental Security Income benefits, for special immigrant juvenile status, or other application for legal residency. *(WIC 16501.1(g)(16)(A)(ii))*

13) Requires a regional center to communicate and provide written materials in the family's native language during the assessment, evaluation, and planning process for the individualized family service plan (IFSP). *(GOV 95020(g))*

14) Requires a regional center to communicate with the consumer and their family in their native language, including providing alternative communication services, as provided. *(WIC 4643(d))*

15) Requires a regional center to communicate in the consumer's native language, or, when appropriate, the native language of their family, during the planning process for the individual program plan (IPP), and provide a copy of the IPP in the native language of the consumer and their family, as provided. *(WIC 4646(j))*

16) Requires any materials explaining services be available to the public, and notices regarding those materials to be translated into any non-English language spoken by a substantial number of the public served by the agency. Provides discretion to the local agency to determine when these materials are necessary. *(GOV 7295)*

This bill:

1) Adds the following to the Foster Youth Bill of Rights:

    a) For a child who speaks a primary language other than English, the right to be provided a copy of the Foster Youth Bill of Rights in the child's primary language;

b) The right to be provided a copy of the court report, case plan, and TILP in the child's primary language, when a child is entitled to receive a copy of those documents.

2) Requires, for a child who receives a copy of their case plan and who speaks a primary language other than English, that the case plan be translated and provided to the child in their primary language.

3) Requires, for a child who speaks a primary language other than English, that the child's TILP be translated into their primary language.

Background

Child Welfare Services (CWS) System. The CWS system is an essential component of the state's safety net. Social workers in each county receive reports of abuse or neglect, and work to investigate and resolve those reports. When a case is substantiated, a family is either provided with services to ensure a child's well-being and avoid court involvement, or a child is removed from the family and placed into foster care. This system seeks to ensure the safety and protection of these children, and where possible, preserve and strengthen families through visitation and family reunification. It is the state's goal to reunify a foster child or youth with their biological family whenever possible. In 2021, the state's child welfare agencies received 400,313 reports of abuse or neglect. Of these, 61,438 reports contained allegations that were substantiated and 22,004 children were removed from their homes and placed into foster care via the CWS system.

As of January 1, 2022, there were 59,539 children in California's CWS system.

Foster Youth Bill of Rights. In 2001, AB 899 (Lui, Chapter 683, Statutes 2001) consolidated and codified in statute all of the rights existing law provided at the time to foster youth and created the Foster Youth Bill of Rights. AB 899 also required foster care providers and group home operators to provide foster youth with an age and developmentally appropriate orientation to the foster care system that includes an explanation of their rights and provides answers to the youths' questions or concerns. Over time, additional rights have been given to foster youth and added to the Foster Youth Bill of Rights. Most recently, AB 2119 (Gloria, Chapter 385, Statutes 2018) clarified a foster youth's right to gender affirming care, gender affirming behavior health services, and case plans that consider their gender identity, and incorporated these rights into the Foster Youth Bill of Rights.

In 2016, AB 1067 (Gipson, Chapter 851, Statutes 2016) required CDSS to convene a working group of stakeholders from around the state, to be chaired by the OFCO

and include representatives the Bureau of Children's Justice, the County Welfare Directors Association, the Chief Probation Officers of California, the County Behavioral Health Directors Association of California, current and former foster youth, foster parents and caregivers, foster children advocacy groups, foster care providers associations, and other interested parties, to update and improve the Foster Youth Bill of Rights. OFCO held stakeholder meetings and conducted a series of youth focus groups to inform and respond to the work of the working group on this issue, and ultimately the working group submitted a report containing recommendations to the Legislature.

AB 175 (Gipson, Chapter 416, Statutes of 2019) subsequently revised, recast, and expanded the Foster Youth Bill of Rights based on the working group's recommendations. AB 175 clarified that all children placed in foster care, either voluntarily or after being adjudged a ward or dependent of the juvenile court, have their rights delineated in the Foster Youth Bill of Rights. Additionally, it provided that these rights also apply to nonminor dependents except in circumstances when they conflict with nonminor dependents' retention of their legal decision-making authority as an adult. The current list of rights for all minors and nonminors in foster care includes 41 enumerated rights, such as theright to live in a safe, healthy, and comfortable home where they are treated with respect; be free from any abuse, including physical, sexual, emotional, or corporal punishment; receive adequate and healthy food, clothing; receive medical, dental, vision, mental health services, and substance use disorder services; and to be involved in the development of their own case plan.

This bill adds the right to receive a copy of the court report, case plan, and TILP, when the child is entitled to receive those documents, in the child's primary language. This bill also requires the Foster Youth Bill of Rights be made available and provided in languages besides English to children whose primary languages are not English. More information on the case plan and TILP can be found in the Senate Human Services Committee's analysis of this bill.

Comments

According to the author, "of the over 60,000 children and non-minor dependents in California's foster care system, over half are Black, Indigenous, Latinx, and Asian, and a percentage speak a primary language other than English. In Los Angeles alone, 120 of the 600 foster youth of Asian descent list a language other than English as their primary language. Yet, courts are not required to translate critical child welfare documents for these foster youth. As a result, many children and non-minor dependents are navigating our foster care system with limited understanding

of their case plans, rights, and the goals set forth for them. AB 1735 will provide foster youth with the language access tools that they need to comprehend and actively participate in their cases and successfully exit the system."

This bill seeks to give foster children and youth access to important documents in their primary language. Existing law provides that foster children and youth must be provided with information regarding the Foster Youth Bill of Rights and, for youth of certain ages, with copies of their case plan, court report, and TILP. However, if the youth cannot read these documents because they are provided in a language besides the youth's primary language, it is unclear how the youth is expected to know about the important information these documents contain. Additionally, in the case of TILP, it is unclear how a youth is supposed to sign and agree to complete the steps outlined in the TILP when the TILP is only provided in a language outside of the youth's primary language.

In other social services systems, important service plan documents are required to be provided according to certain native language requirements. For example, in the Developmental Disabilities Services system, since 2014, individuals with developmental disabilities and their families who are served by Regional Centers are required to receive copies of the IFSP and Individual Program Plan in the individual's or their family's native language. Additionally, existing law requires the Regional Center to also communicate with the family and individual during those planning processes in their native language. This process recognizes that if these important case plan like documents are not provided in a language that is accessible to the family or the individual, then the information and agreements they contain are not accessible to the family or individual served. This bill seeks grant similar language access rights to foster youth.

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

According to the Senate Appropriations Committee:

- CDSS estimates ongoing local costs of $91,000 (General Fund) for social worker time to request translation of documents and one-time state costs of $500,000 (General Fund) to translate and print the updated Foster Youth Bill of Rights.

- To the extent this bill increases county costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment, this bill would apply to local agencies only to the extent that the state provides annual funding for the cost increases.

SUPPORT: (Verified 8/23/22)

Children's Law Center of California (source)
Alliance for Children's Rights
California Alliance of Caregivers
California Alliance of Child and Family Services
California Teachers Association
California Youth Connection
John Burton Advocates for Youth
National Association of Social Workers – California Chapter
Public Counsel

OPPOSITION: (Verified 8/23/22)

None received

ASSEMBLY FLOOR: 69-0, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bigelow, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bennett, Berman, Mia Bonta, Jones-Sawyer, Mayes, McCarty, O'Donnell, Blanca Rubio, Voepel

Prepared by: Marisa Shea / HUMAN S. / (916) 651-1524
8/23/22 15:03:14

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

SENATE RULES COMMITTEE AB 1740
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1740
Author: Muratsuchi (D)
Amended: 8/24/22 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 13-0, 6/13/22
AYES: Roth, Melendez, Bates, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Archuleta

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 61-0, 5/5/22 (Consent) - See last page for vote

SUBJECT: Catalytic converters

SOURCE: Author

DIGEST: This bill requires a core recycler who accepts a catalytic converter to include a written record of the year, make, model, in addition to the vehicle identification number (VIN) of the vehicle and a copy of the title, as specified including the VIN or similar identifying information, of the vehicle from which the catalytic converter was removed. This bill prohibits a core recycler from entering into a transaction to purchase or receive a catalytic converter from any person that is not a commercial enterprise, as defined, or verifiable owner of the vehicle from which the catalytic converter was removed, and requires a core recycler to verify specified information. This bill exempts core recyclers from specified requirements if the core recycler and the seller or commercial enterprise have a written agreement, as specified. This bill makes changes to avoid chaptering out conflicts with other bills amending the same code sections.

Senate Floor Amendments of 8/24/22 include updated definitions, requirements, and provisions contained in SB 986 (Umberg and Portantino) and SB 1067 (Gonzalez) in order to avoid chaptering conflicts.

ANALYSIS:

Existing law:

1) Defines "core recycler" as a person or business, including a recycler or junk dealer, that buys used individual catalytic converters, transmissions, or other parts previously removed from a vehicle. (Business and Professions Code (BPC) § 21610)

2) Clarifies a person or business that buys a vehicle that may contain the parts in 1) is not a core recycler. (BPC § 21610)

3) Requires a core recycler who accepts a catalytic converter for recycling to maintain a written record that contains all of the following:

    a) The place and date of each sale or purchase of a catalytic converter made in the conduct of his or her business as a core recycler.

    b) The name, valid driver's license number, and state of issue, or California-issued identification number, of the seller of the catalytic converter and the vehicle license number, including state of issue of a motor vehicle used in transporting the catalytic converter to the core recycler's place of business. If the seller is a business, the written record shall include the name, address, and telephone number of the business.

    c) A description of the catalytic converters purchased or sold, including the item type and quantity, amount paid for the catalytic converter, and identification number, if any, and the vehicle identification number.

    d) A statement indicating either that the seller of the catalytic converter is the owner of the catalytic converter, or the name of the person from whom he or she has obtained the catalytic converter, including the business, if applicable, as shown on a signed transfer document. (BPC § 21610)

4) Requires a core recycler engaged in the selling or shipping of used catalytic converters to other recyclers or smelters shall retain information on the sale that includes all of the following:

    a) The name and address of each person to whom the catalytic converter is sold or disposed of.

    b) The quantity of catalytic converters being sold or shipped.

c) The amount that was paid for the catalytic converters sold in the transaction.

d) The date of the transaction. (BPC § 21610)

5) Prohibits a core recycler from providing payment for a catalytic converter unless all of the following requirements are met:

a) The payment is made by check and provided to the seller by mail at the address provided or mailed to the seller's business address.

b) Collected by the seller from the recycler on the third business day after the date of sale.

c) A seller that is a business may receive immediate payment. A seller that is a business that has a contract with a core recycler or a seller that is a licensed auto dismantler may receive immediate payment by check or by debit card or credit card.

d) At the time of sale, the core recycler obtains a clear photograph or video of the seller.

e) The core recycler obtains a copy of the valid driver's license of the seller or the seller's agent containing a photograph and an address of the seller or the seller's agent, or a copy of a state or federal government issued identification card containing a photograph and an address of the seller or the seller's agent.

f) If the seller prefers to have the check for the catalytic converter mailed to an alternative address, other than a post office box, the core recycler shall obtain a copy of a driver's license or identification card described above and a gas or electric utility bill addressed to the seller at the alternative address with a payment due date no more than two months prior to the date of sale. For the purpose of this subparagraph, "alternative address" means an address that is different from the address appearing on the seller's driver's license or identification card.

g) The core recycler obtains a clear photograph or video of the catalytic converter being sold.

h) At the time of sale, the core recycler obtains a written statement from the seller indicating how the seller obtained the catalytic converter. (BPC § 21610)

6) States certain requirements shall not apply to a core recycler that buys used catalytic converters, transmissions, or other parts removed from a vehicle if the core recycler and the seller have a written agreement for the transaction. (BPC § 21610)

7) Requires core recyclers accepting catalytic converters from licensed auto dismantlers or from recyclers who hold a written agreement with a business that sells catalytic converters for recycling purposes are required to collect only the following information:

   a) Name of seller or agent acting on behalf of the seller.

   b) Date of transaction.

   c) Number of catalytic converters received in the course of the transaction.

   d) Amount of money that was paid for catalytic converters in the course of the transaction. (BPC § 21610)

8) States a core recycler shall keep and maintain the information required pursuant to this section for not less than two years. (BPC § 21610)

9) States a core recycler shall make the information required pursuant to this section available for inspection by local law enforcement upon demand. (BPC § 21610)

10) States a person who makes, or causes to be made, a false or fictitious statement regarding any information required pursuant to this section is guilty of a misdemeanor. (BPC § 21610)

11) States a person who violates the requirements of this section is guilty of a misdemeanor. (BPC § 21610)

12) States upon conviction, a person who knowingly and willfully violates the requirements of this section shall be punished as follows:

   a) For a first conviction, by a fine of $1,000.

   b) For a second conviction, by a fine of not less than $2,000. In addition to this fine, the court may order the defendant to cease engaging in the business of a core recycler for a period not to exceed 30 days.

   c) For a third and subsequent conviction, by a fine of not less than $4,000. In addition to this fine, the court shall order the defendant to cease engaging in

the business of a core recycler for a period not less than one year. (BPC § 21610)

13) Requires the provisions of this section apply to core recyclers and do not apply to a subsequent purchaser of a catalytic converter who is not a core recycler. Other than subdivision (f), the provisions of this section do not apply to a core recycler who holds a written agreement with a business or recycler regarding the transactions. (BPC § 21610)

This bill:

1) Defines a "commercial enterprise" to include any of the following: a licensed automobile dismantler, a core recycler that maintains a fixed place of business for the purpose of obtaining catalytic converters, a licensed motor vehicle manufacturer, dealer, or lessor-retailer, a licensed automotive repair dealer, or any other licensed business that may reasonably generate, possess, or sell used catalytic converters.

2) Requires a core recycler who accepts a catalytic converter to include a written record of the physical business address, business telephone number, and the business license number or tax identification number if the seller is commercial enterprise, in addition to the the year, make, model, and the VIN of the vehicle from which the catalytic converter was removed, and a copy of the title of the vehicle that shows the VIN matches the number permanently marked on the catalytic converter.

3) Specifies that in order for a core recycler to be exempt from certain requirements in order to provide payment for a catalytic converter, the core recycler and the seller must have a written agreement for the transaction that includes a regularly updated log or record of all catalytic converters received pursuant to the agreement that describes each catalytic converter in detail, as specified.

4) Adds to the information that a core recycler is required to collect in order to accept a catalytic converter from a commercial enterprise if the core recycler holds a written agreement with a business that sells catalytic converters for recycling purposes.

5) Prohibits a core recycler from entering into a transaction to purchase or receiving a catalytic converter from any person that is not a commercial enterprise or verifiable owner of the vehicle from which the catalytic converter was removed, and requires a core recycler to verify the following information:

a) The catalytic converter is permanently marked with a VIN prior to the owner presenting the catalytic converter to the core recycler for sale. A core recycler shall not permanently mark a catalytic converter for the purpose of satisfying this requirement.

b) The owner of the vehicle holds title to the vehicle with a VIN matching the number permanently marked on the catalytic converter subject to the transaction.

6) Exempts core recyclers from specified requirements if the core recycler and the seller or commercial enterprise have a written agreement, as specified.

7) Makes changes to avoid chaptering out conflicts with other bills amending the same code sections.

Background

Today, the prices of metals such as rhodium, platinum, and palladium inside of catalytic converters have increased dramatically in the last few years, both because they were in short supply prior to the COVID-19 pandemic and because of recent supply chain issues. According to the National Insurance Crime Bureau, there has been a ten-fold increase in catalytic converter thefts since 2018, with more than 14,000 reported catalytic converters stolen in 2020, with BeenVerified estimating there were 65,398 thefts nationwide – a 353% increase from reported catalytic converter thefts in 2020. According to media reports, recyclers can pay $50-$200 to legally obtain a failed catalytic converter, or one from a junked vehicle. With high metal prices, though, it is possible for processors to make several hundred per unit selling contents to the refinery. If a catalytic converter is stolen, consumers must generally pay $400-$3,000 for a catalytic converter replacement, depending on the make and model of the vehicle.

Permanent marking, or etching, of catalytic converters is one method by which one could identify a stolen catalytic converter. With the increased interest in catalytic converter VIN etching services, a variety of etching products and techniques have been developed. One of the most common methods of etching a catalytic converter is to use an engraving hand tool to etch the number into the equipment. Manual engraving tools can be purchased from hardware stores or online from a wide range of retailers for $25 – $400+. Chemical etch labels and kits can also be a cost-effective technique (often less than $30) to ensure that even if the label is removed, identification information is still permanently detectable on the equipment. Automated industrial-level VIN etching machines can cost thousands, generally over $1,000 for a small and simple machine and over $5-10,000 for a larger and

more complex machine, but many automotive professionals can still etch catalytic converters rapidly and effectively with manual tools.

While the etching process itself is generally simple and inexpensive, accessing the catalytic converter for etching can be difficult for many newer car models. Catalytic converters are typically located on the underside of the car, but many newer vehicle models incorporate the catalytic converter as a part of the exhaust manifold, essentially making the catalytic converter difficult to access without disassembling a significant portion of the vehicle engine. In these cases, automobile technicians require specialized equipment and additional time to access the catalytic converter for etching.

Traceable catalytic converters may disincentive theft by prohibiting establish businesses from servicing vehicles with stolen goods; however, it does not stop third party selling such as the vendors described above. Overall, this is a step in reducing theft, but it might not fully eliminate it.

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

According to the Senate Appropriations Committee, this bill will result in unknown workload cost pressures on the courts to adjudicate charges that are brought under the provisions of this bill.

SUPPORT: (Verified 8/22/22)

Alliance for Automotive Innovation
Auto Club of Southern California
California District Attorneys Association
California New Car Dealers Association
Cities of Alameda, Beverly Hills, Campbell, Chino Hills, Clovis, Corona, Downey, El Segundo, Elk Grove, La Mirada, Lakewood, Menifee, Milpitas, Oakland, Paramount, Rancho Palos Verdes, San Bernardino, Signal Hill, Torrance, Visalia, Wasco, and Whittier
League of California Cities
Los Angeles County Division, League of California Cities
National Insurance Crime Bureau
Northern California Recycling Association
Peace Officers Research Center of California

OPPOSITION: (Verified 8/22/22)

None received

ARGUMENTS IN SUPPORT: Generally, supporters write that this bill will support efforts in stopping catalytic converter theft.

ASSEMBLY FLOOR: 61-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Ward, Akilah Weber, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Friedman, Gallagher, Cristina Garcia, Gipson, Levine, McCarty, Medina, Villapudua, Waldron, Wicks

Prepared by: Dana Shaker / B., P. & E.D. /
8/26/22 15:36:13

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

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THIRD READING

Bill No: AB 1743
Author: McKinnor (D)
Amended: 8/22/22 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 7-0, 6/21/22
AYES: Wiener, Caballero, Cortese, McGuire, Roth, Skinner, Umberg
NO VOTE RECORDED: Bates, Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: Not relevant

SUBJECT: General plan: annual report

SOURCE: Author

DIGEST: This bill requires local planning agencies to include information in their annual progress report (APR) about the number of new housing units that received their certificate of occupancy in the prior year.

Senate Floor Amendments of 8/22/22 make technical and clarifying changes and resolve chaptering conflicts with AB 2653 (Santiago), AB 2011 (Wicks), and AB 2094 (Rivas).

ANALYSIS:

Existing law:

1) Requires each city and county to provide, by April 1 of each year, an APR to the Department of Housing and Community Development (HCD) that includes the status of their general plan and progress in its implementation, including the progress in meeting its share of regional housing needs.

2) Establishes, pursuant to SB 35 (Wiener, Chapter 366, Statutes of 2017), a streamlined, ministerial approval process, not subject to CEQA, for certain infill multifamily affordable housing projects proposed in local jurisdictions that have not met their RHNA allocation.

3) Requires a local agency to ministerially approve, within 60 days, in an area zoned for residential or mixed-use, an application for a building permit to create an ADU and a Junior Accessory Dwelling Unit (JADU) as follows:

This bill requires the APR to include the number of housing units that have received a certificate of occupancy in the prior year, including the number of units constructed using SB 35 (Wiener, Chapter 366, Statutes of 2017), the number of ADUs constructed, and the number of ADU ordinances adopted. This bill also resolves chaptering conflicts with AB 2653 (Santiago), AB 2011 (Wicks), and AB 2094 (Rivas).

Background

Existing law requires every city and county to prepare a housing element as part of its general plan. This is done every eight years by local governments located within the territory of an metropolitan planning organization (MPO) and every five years by local governments in rural non-MPO regions. Each community's fair share of housing is determined through the regional housing needs allocation (RHNA) process, which is composed of three main stages: (1) the Department of Finance and HCD develop regional housing needs estimates; (2) councils of government allocate housing within each region based on the estimates; and (3) cities and counties incorporate their allocations into their housing elements. The housing element must contain an inventory of land suitable for residential development, which is used to identify sites that can be developed for housing within the planning period and are sufficient to provide for the locality's share of the regional housing need for all income levels.

Each jurisdiction must submit an APR to HCD by April 1st of each year that documents its progress toward meeting its RHNA allocation and the plans outlined in its housing element.

Comments

1) *More data*. The Legislature has approved a number of measures, particularly in recent years, aimed at streamlining and expediting housing development. This

bill requires APRs to include information about how many certificates of occupancy local agencies granted in the prior year. Local agencies would also be required to specify how many of those units were permitted through the streamlined, ministerial processes granted by SB 35 and by ADU law. By requiring this information, cities, counties, and the state will have a better understanding of development within their jurisdictions.

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

SUPPORT: (Verified 7/29/22)

None received

OPPOSITION: (Verified 7/29/22)

None received

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
8/23/22 13:23:20

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

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THIRD READING

Bill No: AB 1749
Author: Cristina Garcia (D)
Amended: 8/25/22 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-1, 6/29/22
AYES: Allen, McGuire, Skinner, Stern, Wieckowski
NOES: Dahle
NO VOTE RECORDED: Bates

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 48-18, 5/26/22 - See last page for vote

SUBJECT: Community emissions reduction programs: toxic air contaminants and criteria air pollutants

SOURCE: Author

DIGEST: This bill updates requirements of AB 617 (Cristina Garcia, Chapter 136, Statutes of 2017) to permit an additional year for completion of community emissions reduction programs (CERPs); requires the Air Resources Board (ARB) to identify specified emissions reduction measures; and enhances reporting by local air districts.

Senate Floor Amendments of 8/25/22 clarify that to obtain an extension in implementing a CERP an air district must reach an agreement with the majority of the individuals previously designated by the air district to engage in the development and adoption of the plan.

Senate Floor Amendments of 8/9/22 require an air district to obtain agreement with all the groups that statutorily are required to be engaged in the creation of the CERP in order to delay implementation of a CERP by a year.

ANALYSIS:

Existing law:

1) Sets, through the Federal Clean Air Act (FCAA) and its implementing regulations, National Ambient Air Quality Standards (NAAQS) for six criteria pollutants, designates air basins that do not achieve NAAQS as nonattainment, allows only California to set emissions standards stricter than the federal government, and requires states with nonattainment areas to submit a State Implementation Plan (SIP) detailing how they will achieve compliance with NAAQS. (42 U.S.C. §7401 et seq.)

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

3) Requires, subject to the powers and duties of ARB, local air pollution control districts and air quality management districts (air districts) to adopt and enforce rules and regulations to achieve and maintain the state and federal ambient air quality standards in all areas affected by emission sources under their jurisdiction, and to enforce all applicable provisions of state and federal law. (HSC §40001)

4) Requires air districts to develop attainment plans detailing how they will attain and maintain state air quality standards, and submit those plans to ARB. (HSC §40910 et seq.)

5) Requires, under AB 617 (Christina Garcia, Chapter 136, Statutes of 2017), ARB to prepare a statewide strategy to reduce emissions of toxic air contaminants (TACs) and criteria pollutants in communities affected by a high cumulative exposure burden, and update the strategy every five years. (HSC §44391.2)

6) Specifies criteria to be included in the strategy for the development of CERPs including:

    a) An assessment and identification of communities with high cumulative exposure burdens for TACs and criteria air pollutants, prioritizing disadvantaged communities (DACs) and sensitive receptor locations;

b) A methodology for assessing and identifying the contributing sources or categories of sources, including stationary and mobile sources, and an estimate of their relative contribution to elevated exposure to air pollution in impacted communities;

c) An assessment of whether a district should update and implement the risk reduction audit and emissions reduction plan for any facility to achieve emission reductions commensurate with its relative contribution, if the facility's emissions significantly contribute to a material impact on a sensitive receptor location or DAC; and

d) An assessment of the existing and available measures for reducing emissions from the contributing sources or categories of sources.

7) Requires ARB to select locations around the state for preparation of CERPs, concurrent with the statewide strategy, with additional locations selected annually thereafter, as appropriate.

8) Requires a district, within one year of ARB selection, to adopt a CERP to achieve emissions reductions using cost-effective measures identified by ARB. The CERP must include emissions reduction targets, specific reduction measures, an implementation schedule, and an enforcement plan. The CERP must be reviewed and approved by ARB, be supported by the concurrent development of mobile source elements by ARB, and result in emission reductions based on monitoring and other data.

9) Requires districts to prepare an annual report summarizing the results and actions taken to further reduce emissions pursuant to a CERP.

10) Requires ARB to provide grants to community-based organizations for technical assistance and to support participation in implementation of a CERP.

This bill:

1) Authorizes an air district, with the agreement of ARB and a majority of the persons who are designated by the district to participate in the development and adoption of the CERP, to take up to one additional year to adopt a CERP.

2) Requires an air district's annual report to include updates to the CERP made to ensure consistency with updates to ARB's statewide strategy.

3) Requires ARB's statewide strategy, the Community Air Protection Blueprint, to identify measures to reduce criteria air pollutants and TACs.

4) Requires each air district with a population over one million to make available in an easily identifiable location on the district's internet website all permits issued by the district for stationary sources of criteria air pollutants or TACs.

Background

1) *National Ambient Air Quality Standards (NAAQS) and attainment.* The FCAA protects public health and environmental quality by limiting and reducing pollution from various sources. Under the FCAA, the US EPA establishes NAAQS that apply to outdoor air throughout the country. In 1969 and 1971, ARB set the first air quality standards for ozone, Particulate Matter (PM), oxides of nitrogen (NOx), oxides of sulfur (SOx), and carbon monoxide due to their negative impacts on public health above specified concentrations. The federal government followed suit and set NAAQS for six "criteria pollutants." These included ground-level ozone, PM, NOx, SOx, carbon monoxide, and added lead. Now, the US EPA reviews each NAAQS at five-year intervals to ensure that the standards are based on the most recent scientific information, and periodically issue more health- protective standards. Regions that do not meet the national standards for any one of the standards are designated "nonattainment areas."

2) *Community Air Protection Program.* ARB established the Community Air Protection Program (CAPP) in response to AB 617 in order to reduce exposure in communities most impacted by air pollution. Under CAPP, ARB has selected 13 communities for the development of additional air pollution monitoring programs or the development of CERPs. After selection by ARB these air districts must form local steering committees, using an open and transparent nomination process, that is composed of community members who live, work, or own businesses within each community. These community steering committees then work with the air district and ARB to develop a CERP designed to focus on health-based air quality objectives for reducing emissions and exposure caused by local sources within and directly surrounding the selected communities. As a part of these CERPs, communities and air districts can benefit from the $704 million appropriated by the Legislature since 2017 for Community Air Protection Incentives. These incentives are directed by local air districts to put advanced technologies to work for cleaner air in the California communities that are most heavily impacted by disproportionate levels of air pollution.

3) *Having pollutant level above a NAAQS can lead to severe health impacts*. The NAAQS are the result of an intensive science assessment process and risk

exposure assessments to determine levels that will protect human and environmental health. When not adequately controlled, air pollution has dire consequences on the health and safety of both people and the environment. Poor air quality causes the lungs to constrict, resulting in wheezing, shortness of breath and chest tightness, especially during exercise or physical activity. Depending on exposure, air pollution alone can cause an increased risk of cardiovascular and respiratory illness, cancerous tumors, birth defects, developmental disorders, central nervous system damage, epilepsy, dementia, and premature death.

4) *Health impacts from air pollution are often concentrated in disadvantaged communities*. The health burden of air pollution depends on several key factors including exposure to the pollutant, susceptibility to its effects, access to healthcare, and psychological stress. Because of redlining and other discriminatory practices and policies people of color are disproportionality located in areas closer to sources of air pollution. There is also evidence that having a low income also increases risk from air pollution due to having fewer resources to relocate away from sources as well as less access to quality and affordable healthcare.

Comments

Purpose of this bill. According to the author, "A study released March 9, 2022 analyzed the effects of the discriminatory practice of redlining, which drove low-income communities and communities of color into housing surrounding or very near high polluting sources, and found that residents in those areas suffer from disproportionately high levels of fine particulate air pollution (PM2.5) which is a known factor in early death. In response to this problem, I authored AB 617 in 2017, which injects the community into the process of how to clean up our air in these communities. However, after several years of the program, there are many issues to be worked out through legislation. AB 1749 provides transparency in permitting by providing said permits online and gives another year for CERP approval if the community agrees, among other things. The way we address the health of people living in frontline communities needs to shift and AB 617 started the process. AB 1749 is continuing to build upon my previous work in this space."

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

SUPPORT: (Verified 8/24/22)

Californians for Pesticide Reform
Central California Asthma Collaborative

Central Valley Air Quality Coalition
Little Manila Rising
Madera Coalition for Community Justice
National Association of Social Workers, California Chapter
Pesticide Action Network of North America
Plug in America
South Coast Air Quality Management District

OPPOSITION: (Verified 8/24/22)

California Manufacturers and Technology Association
Western States Petroleum Association

ASSEMBLY FLOOR: 48-18, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Choi, Daly, Gipson, Gray, Grayson, Mayes, McCarty, O'Donnell, Quirk-Silva, Ramos, Villapudua

Prepared by: Jacob O'Connor / E.Q. / (916) 651-4108
8/26/22 15:36:14

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

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THIRD READING

Bill No: AB 1751
Author: Daly (D)
Amended: 8/25/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 6/29/22
AYES: Cortese, Durazo, Newman, Wiener
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 58-10, 5/26/22 - See last page for vote

SUBJECT: Workers' compensation: COVID-19: critical workers

SOURCE: Author

DIGEST: This bill extends the sunset date of the workers' compensation COVID-19 presumptions, as specified, to January 1, 2024.

Senate Floor Amendments of 8/25/22:

1) Reduce extension of existing COVID-19 Workers' Compensation presumptions from two years to one year, establishing a sunset date of January 1, 2024.

2) Add employees from the following departments to those covered by COVID-19 presumptions under Labor Code Section 3212.87:

   a) The State Department of State Hospitals.

   b) The State Department of Developmental Services.

   c) The Military Department.

d) The Department of Veterans Affairs.

ANALYSIS:

Existing law:

1) Provides a rebuttable presumption that a peace officer, firefighter, specified frontline employees, and certain health care employees, as defined, who contract COVID-19 were infected with the virus via a workplace exposure. (Labor Code §3212.87)

2) Provides that all of the normal workers' compensation benefits are available to these employees who become presumptively eligible for workers' compensation benefits. (Labor Code §3212.87-3212.88)

3) Provides that the presumptions established by the bill continue for 14 days after the last day of employment with an employer. (Labor Code §3212.86-3212.88)

4) Establishes a presumption of compensability for employees who contract COVID-19 from any employer that experiences an "outbreak" of COVID-19 cases at a particular work location. (Labor Code §3212.88)

5) Defines an "outbreak" as follows:

   a) For employers with 5-100 employees, five or more employees who worked at a specific work location contracted the disease within a 14-day period;

   b) For employers with more than 100 employees, 5% or more of the employees who worked at a specific work location contracted the disease within a 14-day period. (Labor Code §3212.88)

6) Specifies that this presumption is rebuttable, and the evidence to rebut the presumption includes, but is not limited to, evidence of measures in place to prevent transmission of COVID-19 and evidence of an employee's nonoccupational exposure to COVID-19.

7) Provides that the presumptions established under Labor Code Sections 3212.86, 3212.87, and 3212.88 sunset on January 1, 2023.

This bill:

1) Extends the sunset date of the presumptions established under Labor Code Sections 3212.86, 3212.87, and 3212.88 from 2023 to January 1, 2024.

2) Adds employees from the following departments to those covered by COVID-19 presumptions under Labor Code Section 3212.87:

   a) The State Department of State Hospitals.

   b) The State Department of Developmental Services.

   c) The Military Department.

   d) The Department of Veterans Affairs.

3) Clarifies that Community College District Chancellors, School Presidents, and School Superintendents may order a school to close due to risk of infection by COVID-19.

Comments

Need for this bill. COVID-19 continues to be an ongoing risk to California's workers. Given the continued risk of contraction and the ongoing research into the lingering effects of COVID-19 exposure, AB 1751's extension of the existing presumptions could help ensure that injured workers will have access to the workers' compensation benefits they deserve.

Related/Prior Legislation

SB 1159 (Hill, Chapter 85, Statutes of 2020) created a rebuttable presumption for critical workers that illness or death related to COVID-19 (novel coronavirus) are an occupational injury and therefore eligible for workers' compensation benefits.

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

According to the Senate Appropriations Committee, the Department of Industrial Relations indicates that it would incur costs to its Division of Workers Compensation of $11 million over 2026-27 and 2027-28 to extend for two additional years the limited-term positions previously authorized to implement the original presumption (Workers' Compensation Administration Revolving Fund), potentially offset by minor penalty revenue.

Continuing coverage of presumptive injuries to specified employees would likely result in increases to workers compensation premiums, to the extent continuing the presumption results in a higher number of workers' compensation claims being approved among state workers that would have otherwise been denied. Thus, this bill would result in higher workers compensation premium costs for state departments, as the State is a direct employer. The magnitude is unknown, but

potentially significant across all state departments (General Fund and special funds).

SUPPORT: (Verified 8/26/22)

CAL FIRE Local 2881
California Association of Highway Patrolmen
California Nurses Association
California Professional Firefighters
California School Employees Association
California Statewide Law Enforcement Association
California Teachers Association
Peace Officers Research Association of California

OPPOSITION: (Verified 8/26/22)

Acclamation Insurance Management Services
Allied Managed Care
American Property Casualty Insurance Association
Association of California Healthcare Districts
Association of Claims Professionals
Breckpoint
California Association for Health Services at Home
California Association of Joint Powers Authorities
California Association of Winegrape Growers
California Beer and Beverage Distributors
California Business Properties Association
California Chamber of Commerce
California Coalition on Workers Compensation
California Farm Bureau
California Grocers Association
California Hospital Association
California League of Food Producers
California New Car Dealers Association
California Restaurant Association
California Special Districts Association
California State Association of Counties
City of Beverly Hills
Coalition of Small and Disabled Veteran Businesses
Flasher Barricade Association
Independent Insurance Agents & Brokers of California, Inc.

League of California Cities
National Federation of Independent Business
Public Risk Innovation, Solutions, and Management
The Protected Insurance Program for Schools & Community Colleges Joint Powers Authority
Urban Counties of California
Wine Institute

ARGUMENTS IN SUPPORT: The California Nurses Association writes in support:

> As of June 3, 2022, local health departments have reported 163,894 confirmed positive COVID-19 cases in health care workers and 581 deaths statewide.
>
> COVID-19 is a global health crisis, but it is also a personal tragedy for healthcare workers and their families. Nurses enter this vocation because they wish to care for the sick and vulnerable among us. We have not done enough as a state to protect our frontline workers, who run toward this danger every day, rather than away from it. While most of the world has been able to shelter in place, nurses, healthcare workers, and first responders courageously enter the front lines putting themselves in harm's way to continue to care for the sick.
>
> Frontline healthcare workers deserve continued protection and security, so they can continue to care for your constituents during this pandemic and beyond. Nurses and health care workers are meeting the daily challenges of this global pandemic, but they cannot do it alone. Now more than ever it is up to lawmakers to ensure they are safe as they carry out their duties.

ARGUMENTS IN OPPOSITION: The California Chamber of Commerce writes in opposition:

> California, early in the pandemic, chose to implement a COVID-19 presumption to ensure that employees would have access to the workers' compensation system in the event of an infection. Employers opposed the imposition of a presumption because, we argued, COVID-19 was a community spread virus, and there was no reason to believe that the employment posed a heightened risk or that a presumption was needed. However, employers worked in good faith with the legislature to develop a temporary policy that would help meet the needs of our employees in the face of a new and unpredictable virus.

According to an ongoing analysis from the California Workers' Compensation Institute, California employers have received over 250,000 workers' compensation claims for COVID-19 since the start of the pandemic. Health care providers and taxpayer-funded public agencies have been especially hard hit, accounting for over 50% of all claims and over 60% of the accepted claims. And the data suggests that employers have accepted most of these claims and provided benefits.

Our coalition believes that the COVID-19 presumption should be allowed to sunset as agreed upon in SB 1159. California is no longer sheltering in place and the workplace does not represent a unique risk in most situations. California has implemented an Emergency Temporary Standard for COVID-19 and for most Californians their place of employment is the safest environment in which they spend time. There are also multiple free vaccines available for Californians who want to protect themselves from the most severe consequence of COVID-19.

ASSEMBLY FLOOR: 58-10, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Cunningham, Megan Dahle, Fong, Gallagher, Kiley, Nguyen, Patterson, Smith, Valladares
NO VOTE RECORDED: Berman, Chen, Choi, Davies, Flora, Lackey, Mathis, O'Donnell, Voepel, Waldron

Prepared by: Jake Ferrera / L., P.E. & R. / (916) 651-1556
8/26/22 15:36:14

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1766
Author: Stone (D), Friedman (D), Cristina Garcia (D), Gipson (D), Jones-Sawyer (D), Kalra (D) and Robert Rivas (D), et al.
Amended: 8/24/22 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 11-2, 6/14/22
AYES: Gonzalez, Allen, Becker, Cortese, Dodd, Limón, McGuire, Min, Newman, Skinner, Wieckowski
NOES: Bates, Melendez
NO VOTE RECORDED: Archuleta, Dahle, Rubio, Wilk

SENATE JUDICIARY COMMITTEE: 9-1, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, McGuire, Stern, Wieckowski, Wiener
NOES: Jones
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 59-13, 5/26/22 - See last page for vote

SUBJECT: Department of Motor Vehicles: driver's licenses and identification cards

SOURCE: Author

DIGEST: This bill requires the Department of Motor Vehicles (DMV) to issue restricted California identification cards to an undocumented immigrant, if the person is eligible for a California identification card in all other respects.

Senate Floor Amendments of 8/24/22 clarify the notice to be printed on all driver's licenses and California identification (ID) cards be updated, at the time of the next DMV revision on or after January 1, 2023, to include that federally non-compliant driver's licenses and IDs do not establish eligibility for firearms purchases; clarify that no government agency or department, as specified; commercial entity; or other requester shall obtain or use non-criminal history information maintained by the DMV for purposes of immigration enforcement; clarify that immigration enforcement does not constitute an urgent health and safety need that would allow law enforcement to request access to DMV documents without a court order; and incorporate provisions of SB 523 (Leyva) to prevent chaptering out.

ANALYSIS:

Existing law:

1) Requires the DMV to issue an original driver's license to applicants who cannot provide satisfactory proof that their presence in the United States is authorized under federal law if they meet all other qualifications and provide satisfactory proof to the DMV of their identity and California residency.

2) Requires the Department of Corrections and Rehabilitation (CDCR) and the DMV to ensure that all eligible inmates released from state prisons have valid California Identification (ID) cards.

3) Defines "eligible inmate" to mean an inmate who meets all of the following: a) the inmate has previously held a California driver's license or ID card; b) the inmate has a usable photo on file with the DMV that is not more than 10 years old; c) the inmate has no outstanding fees due for a prior California ID card; and d) the inmate has provided, and the DMV has verified, the inmate's true full name, date of birth, social security number, and legal presence in the U.S.

4) Prohibits the DMV from disclosing documents submitted for purposes of obtaining a driver's license or ID card absent a subpoena for individual records in a criminal court proceeding or a court order, or in response to a law enforcement request to address an urgent health or safety need if the law enforcement agency certifies in writing the specific circumstances that do not permit authorities time to obtain a court order. Also establishes that such documents and information is not a public record.

5) Requires the DMV to print on certain non-federally compliant, non-REAL ID driver's licenses the following notice, "This card is not acceptable for official

federal purposes. This license is issued only as a license to drive a motor vehicle. It does not establish eligibility for employment, voter registration, or public benefits."

6) Makes it unlawful to discriminate against a person because the person holds or presents a driver's license issued under specified sections of the Vehicle Code.

7) Prohibits law enforcement agencies (including school police and security departments) from using resources to investigate, interrogate, detain, detect, or arrest people for immigration enforcement purposes.

This bill:

1) Requires the DMV, commencing no later than January 1, 2027, to issue restricted ID cards to eligible applicants who are unable to verify their legal presence in the United States as authorized under federal law.

2) Clarifies that immigration enforcement, as specified, does not constitute an urgent health and safety need that would allow law enforcement to request access to DMV documents submitted for purposes of obtaining a driver's license or ID card without a court order.

3) Revises one of the definitions for an "eligible inmate" for obtaining a driver's license or ID card, to mean the DMV has verified the inmate's legal presence in the U.S. or if the inmate is unable to submit satisfactory proof that their presence in the U.S. is authorized under federal law, the inmate has provided proof of their identity, as specified.

4) Requires ID cards, issued pursuant to this bill, to bear the following notice: "This card is not acceptable for official federal purposes. This identification card is issued only as a means of identification. It does not establish eligibility for employment, voter registration, or public benefits."

5) Requires DMV, at the time of the next schedule revision of the ID cards, to update the notice printed on the ID cards to include, but not be limited to:

    a) For REAL ID identification cards that the identification card is issued only as a means of identification and does not establish eligibility for employment, voter registration, or public benefits.

b) For a non-federally compliant, non-REAL ID identification cards that the identification card is issued only as a means of identification, it does not establish eligibility for employment, firearms purchases, voter registration, or public benefits, and it is not acceptable for official federal purposes.

6) Requires DMV, at the time of the next schedule revision of driver's licenses, to update the notice printed on the driver's license to include, but not be limited to:

   a) For REAL ID driver's license that the license is issued as a license to drive a motor vehicle, and that it does not establish eligibility for employment, voter registration, or public benefits.

   b) For a non-federally compliant, non-REAL ID driver's license that the license is issued as a license to drive a motor vehicle, it does not establish eligibility for employment, firearms purchases, voter registration, or public benefits, and it is not acceptable for official federal purposes.

7) Prohibits discrimination against a person because the person holds or presents an ID card issued under the provisions of this bill.

8) Prohibits the use of an ID card issued under the provisions of this bill from being used as evidence of an individual's citizenship or immigration status for any purpose.

9) Clarifies that no government agency or department, as specified; commercial entity; or other requester shall obtain, access, use, or otherwise disclose, non-criminal history information maintained by the DMV for purposes of immigration enforcement, as specified.

10) Deletes obsolete provisions.

11) Incorporates provisions of SB 523 (Leyva) as both bills amend Section 12926 of the Government Code to prevent chaptering out.

Comments

1) *Purpose*. According to the author, "Identification cards enable inclusion and meaningful participation in our neighborhoods, cities, and our state. IDs allow one to open a bank account, obtain benefits, access healthcare, secure housing, and much more. However, if a person who is

undocumented does not have meaningful access to a car or have the ability to take a driving test, they are rendered ineligible for a government-issued ID. Those individuals may rely on gym memberships or college/university IDs *if* they have access to those institutions. Otherwise, they can use a passport or consular ID to corroborate their identities, however, this is an often risky "outing" process for those who are not legally present in the United States. Individuals with mobility issues, disabilities such as epilepsy, and those who are older and develop degenerative eye, muscular, or cognitive diseases are not able to obtain driver's licenses and thus, do not have access to a state government-issued ID. Additionally, undocumented people leaving incarceration are also unable to obtain an original AB 60 driver's license because they cannot access a driving test in prison. AB 1766 will expand ID access for all, regardless of immigration status. Under this bill, California ID eligibility will be expanded to approximately 1.6 million undocumented people."

2) *AB 60 background*. AB 60 (Alejo, Chapter 524, Statutes of 2013), permitted a person unable to provide a social security number (SSN) to submit several alternative forms of documentation to show proof of identity and obtain a driver's license. AB 60 declared that discrimination against AB 60 license holders is a violation of the Unruh Civil Rights Act, which outlaws discrimination by a business establishment. The law also bars authorities from inferring the citizenship or immigration status of the license holder as a basis for criminal investigation proceedings. The statute has since been amended by AB 1660 (Alejo, Chapter 452, Statutes 2014), and Government Code Section 11135, to include additional anti-discrimination protections and require the California Research Bureau (CRB) to compile and submit to the Legislature and the Governor a report of any violations of these anti-discrimination provisions.

   Likewise, prior to the passage of AB 60, several cities in California passed laws creating a municipal ID card. San Francisco County began issuing ID cards to undocumented immigrants in 2009, followed by the City of Oakland in 2013, and the City of Richmond in 2014.

   AB 1766 requires the DMV, no later than January 1, 2027, to issue ID cards to any person who is unable to submit proof of lawful presence in the United States, as authorized under federal law, if they are otherwise able to demonstrate proof of their identity and California residency. It is important to note that these criteria are now used by DMV to issue driver's licenses (to

individuals who qualify, but are not DACA participants). Current law also contains restrictions on what AB 60 driver's licenses can be used for. A driver's licenses, issued pursuant to AB 60, states, "This card is not acceptable for official federal purposes. This license is issued only as a license to drive a motor vehicle. It does not establish eligibility for employment, voter registration, or public benefits." AB 1766 requires ID cards to state, "This card is not acceptable for official federal purposes. It does not establish eligibility for employment, voter registration, or public benefits." Additionally, to update the restrictions for all federally non-compliant, non-REAL ID driver's licenses and ID cards, the bill requires DMV to update these statements upon the next scheduled revision of the driver's licenses and ID cards, which DMV anticipates could be in the next few years, to also include that they cannot be used to establish eligibility for firearms purchases.

3) *DMV Data and ICE*. In recent years, there has been a concern about Immigration and Customs enforcement (ICE) using the DMV database to find the address of undocumented immigrants. The American Civil Liberties Union (ACLU) and the National Immigration Law Center (NILC) released a report in December 2018 for the purpose of providing "as much information as possible about how and what information is shared with the Department of Homeland Security (DHS) and its agencies, so that California residents can effectively weigh the risks and benefits of obtaining a driver's license." According to the report, between January 1, 2017 and April 10, 2018, DHS agencies made 594 inquiries to the DMV driver's license database and 1,085 inquiries to the DMV vehicle registration database by telephone. In 2017, DHS agencies made 113 inquiries to the driver's license database and 1,149 inquiries to the vehicle registration database through online access; and in the first three months of 2018, those agencies made 80 inquiries to the driver's license database and 341 inquiries to the vehicle registration database.

   To address this issue, the Legislature passed AB 1747 (Gonzalez, Chapter 589, Statutes of 2019), which limited the use of the state's telecommunications system containing criminal history information for immigration enforcement purposes, and for purposes of investigating immigration crimes solely because criminal history includes violation of federal immigration.

   Additionally, like all applicants for a state-issued ID card, undocumented Californians seeking one of the new ID cards would have to present the DMV with satisfactory evidence demonstrating that they are who they say they are. In the case of someone applying for one of the ID cards authorized by this bill,

however, the file would include a tacit admission that the applicant is undocumented and therefore potentially subject to immigration detention and deportation at any time. AB 1766 contains privacy provisions, adding the newly authorized ID cards to the provisions for driver's licenses issued pursuant to AB 60, stating that information and documents provided to the DMV to prove identify or residency for the purpose of the ID card are not public records and shall not be disclosed by DMV except as required by law, or in response to a subpoena for individual records in a criminal proceeding or a court order, or in response to a law enforcement request to address an urgent health or safety need if the law enforcement agency certifies in writing the specific circumstances that do not permit authorities time to obtain a court order. AB 1766 further clarifies that immigration enforcement does not constitute an urgent health and safety need.

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

According to the Senate Appropriations Committee:

- DMV indicates that one-time costs to implement this bill by 2027 are not quantifiable at this time because programming will be required on the department's modernized IT platform, which will not be complete until after the 2025-26 fiscal year. Staff estimates one-time costs, likely in the hundreds of thousands of dollars in 2026-27 to promulgate regulations, modify forms and publications, conduct training, and make necessary IT system programming on its modernized systems to implement the provisions of this bill. (Motor Vehicle Account)

- DMV estimates the following ongoing staffing costs (Motor Vehicle Account) to accommodate the anticipated volume of applications for modified ID cards in field offices:

    - $8.6 million and 134.0 PY of staff to process approximately 280,000 applications in 2026-27 (1/2 year costs for first six months of 2024)
    - $2.2 million and 21.0 PY of staff to process approximately 91,000 applications in 2027-28.
    - $1.2 million and 11.5 PY of staff to process approximately 52,500 applications in 2028-29.
    - $845,000 and 8.0 PY of staff to process approximately 39,000 applications in 2029-30 and 38,000 applications in 2030-31.
    - Approximately $500,000 and 5.0 PY ongoing to process an estimated 25,000 applications annually thereafter.

(Staff notes that DMV staffing costs are likely to be fully offset by ID card application fee revenues. Applicants would be charge the regular $33 fee, a reduced-fee of $9, or no fee, as specified below. The bill authorizes DMV to charge an additional fee, as necessary, until 2030 to fully offset its administrative costs)

SUPPORT: (Verified 8/22/22)

ACLU California Action
Alianza
Alliance for a Better Community
Alliance of Californians for Community Empowerment Action
Asian Americans Advancing Justice – California
Asian Law Alliance
Bend the Arc: Jewish Action
Buen Vecino
California Coalition for Women Prisoners
California Federation of Teachers AFL-CIO
California Immigrant Policy Center
California Latinas for Reproductive Justice
California Religious Action Center of Reform Judaism
California Rural Legal Assistance Foundation
Catholic Charities of the Diocese of Santa Rosa
Central American Resource Center- Carecen- of California
Centro Community Hispanic Association
Chinese for Affirmative Action
Clinica Monsignor Oscar A. Romero
Coalition for Humane Immigrant Rights
Communities United for Restorative Youth Justice
Community Action Board of Santa Cruz County, Inc.
Community Clinic Association of Los Angeles County
Community Legal Services in East Palo Alto
County of Santa Clara
Courage California
Disability Rights California
Dolores Huerta Foundation
Drug Policy Alliance
Friends Committee on Legislation of California
Ice Out of Marin
Immigrant Defense Advocates
Immigrant Legal Resource Center

Indivisible CA Statestrong
Indivisible Resisters Walnut Creek
Indivisible San Francisco
Indivisible San Jose
Initiate Justice
Jakara Movement
Kids in Need of Defense
Law Foundation of Silicon Valley
Legal Aid Society of San Mateo County
Legal Services for Children
Long Beach Immigrant Rights Coalition
National Association of Social Workers, California Chapter
NorCal Resist
Oasis Legal Services
Orange County Equality Coalition
Parent Voices San Francisco
Pico California
Pomona Economic Opportunity Center
Public Counsel
Public Law Center
Rainbow Beginnings
Root and Rebound
San Diego Immigrant Rights Consortium
Secure Justice
Sister Warriors Freedom Coalition
South Bay People Power
Successful Reentry, LLC
Thai Community Development Center
The Young Women's Freedom Center
Unite-la, Inc.
Vision Y Compromiso

OPPOSITION: (Verified 8/22/22)

None received

ASSEMBLY FLOOR: 59-13, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra,

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

Prepared by: Katie Bonin / Melissa White/ TRANS./ (916) 651-4121
8/26/22 15:36:15

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

SENATE RULES COMMITTEE AB 1788
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1788
Author: Cunningham (R) and Valladares (R), et al.
Amended: 8/24/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 6-1, 6/8/22
AYES: Umberg, Borgeas, Gonzalez, Hertzberg, Jones, Laird
NOES: Wiener
NO VOTE RECORDED: Caballero, Durazo, Stern, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 65-0, 3/31/22 - See last page for vote

SUBJECT: Sex trafficking: hotels: actual knowledge or reckless disregard: civil penalty

SOURCE: Author

DIGEST: This bill establishes a cause of action against hotels for failing to report known sexual trafficking within the hotel, as specified, or where an employee benefits from sexual trafficking activity within the hotel, as specified.

Senate Floor Amendments of 8/24/22 cabin the latter basis for liability.

ANALYSIS:

Existing federal law:

1) Authorizes an individual who is a victim of human trafficking, peonage, or slavery, as specified, to bring a civil action against the perpetrator or whoever knowingly benefits, financially or by receiving anything of value from participation in a venture which that person knew or should have known has engaged in such acts, as specified, in an appropriate district court of the United

States and may recover damages and reasonable attorneys' fees. (18 U.S.C.S. § 1595(a).)

2) Authorizes state attorneys general to bring a civil action against persons engaging in sex trafficking, as specified, on behalf of the residents of the State. (18 U.S.C.S. § 1595(d).)

Existing state law:

1) Provides that any person who deprives or violates the personal liberty of another with the intent to obtain forced labor or services is guilty of the crime of human trafficking. (Pen. Code § 236.1.)

2) Authorizes a victim of human trafficking to bring a civil action for actual damages, compensatory damages, punitive damages, injunctive relief, any combination of those, or any other appropriate relief. A prevailing plaintiff may also be awarded attorney's fees and costs, and the plaintiff may be awarded up to three times their actual damages or $10,000, whichever is greater. In addition, punitive damages may be awarded upon proof of the defendant's malice, oppression, fraud, or duress in committing the act of human trafficking. (Civ. Code § 52.5.)

3) Requires specified businesses and establishments to post notices in a conspicuous place near the public entrance of the establishment or in another conspicuous location in clear view of the public and employees where similar notices are customarily posted. (Civ. Code § 52.6.)

4) Requires the notices to include specific language regarding a textline and various hotlines to contact if one is aware of or is a victim of human trafficking. The notice must be printed in English, Spanish, and in one other language that is the most widely spoken language in the county where the establishment is located and for which translation is mandated by the federal Voting Rights Act. The Department of Justice is required to create a model notice that may be used by these businesses. (Civ. Code § 52.6.)

5) Provides that a business or other establishment that operates intercity passenger rail or light rail stations, or bus stations shall provide at least 20 minutes of training to employees who may interact with, or come into contact with, a victim of human trafficking or who are likely to receive, in the course of their employment, a report from another employee about suspected human trafficking, in recognizing the signs of human trafficking and how to report

those signs to the appropriate law enforcement agency. A list of topics that must be covered in such training is further provided. (Civ. Code § 52.6.)

6) Subjects businesses that fail to comply with the notice and training requirements of Section 52.6 of the Civil Code to civil penalties. (Civ. Code § 52.6.)

7) Provides that nothing in Civil Code Section 52.6 prevents local governing bodies from adopting and enforcing a local ordinance, rule, or regulation to prevent slavery or human trafficking. (Civ. Code § 52.6.)

8) Requires hotels and motels to provide at least 20 minutes of classroom or other effective interactive training and education regarding human trafficking awareness to each employee who is likely to interact or come into contact with victims of human trafficking, as specified. A list of topics that must be covered in such training is further provided. (Gov. Code § 12950.3.)

This bill:

1) Subjects a hotel to liability for civil penalties and other relief if either or both of the following conditions are met:

    a) sex trafficking activity occurred in the hotel, a supervisory employee of the hotel either knew of the nature of the activity or acted in reckless disregard of the activity constituting sex trafficking activity within the hotel, and the supervisory employee of the hotel failed to inform law enforcement, the National Human Trafficking Hotline, or another appropriate victim service organization within 24 hours; and/or
    b) an employee of the hotel was acting within the scope of employment and knowingly benefited, financially or by receiving anything of value, by participating in a venture that the employee knew or acted in reckless disregard of the activity constituting sex trafficking within the hotel.

2) Authorizes a city, county, or city and county attorney, if there is reasonable cause to believe there has been a violation of the above, to bring a civil action for injunctive and other equitable relief against a hotel for violation of this section. The prosecuting office can also seek civil penalties in the amount of $1,000 for the first violation in a calendar year, $3,000 for the second violation within the same calendar year, and $5,000 for the third and any subsequent violation within the same calendar year.

3) Permits a court to exercise its discretion to increase the amount of the civil penalty up to $10,000 for any fourth or subsequent violation, considering all of the following factors:
   a) the defendant's culpability;
   b) the relationship between the harm and the penalty;
   c) the penalties imposed for similar conduct in similar statutes; and
   d) the defendant's ability to pay.

4) Provides that the lack of reporting of a sex trafficking case that occurs in a hotel shall not, by itself, without meeting the conditions laid out above, result in the liability of an employer of that establishment to the sex trafficking victim or victims in the case in question or to any other party. A violation, by itself, cannot result in criminal liability against the hotel. Nothing therein affects criminal or civil liability that may arise pursuant to other provisions of law.

5) Clarifies that hotel employees cannot be held liable under this bill.

6) Defines "hotel" as a motel, or any other operator or management company that offers and accepts payment for rooms, sleeping accommodations, or board and lodging and retains the right of access to, and control of, a dwelling unit that is required to provide training and education regarding human trafficking awareness pursuant to Section 12950.3 of the Government Code.

7) Sets a five-year statute of limitations, which runs once a minor victim attains the age of majority, if applicable.

Background

Section 52.6 of the Civil Code (Section 52.6) requires certain establishments to post notices regarding resources for witnesses to and victims of human trafficking and slavery. That section also requires rail and bus stations to train their employees in identifying and reporting incidents of human trafficking. The Fair Employment and Housing Act (FEHA) also requires hotel and motel employers to provide at least 20 minutes of training and education regarding human trafficking awareness to their employees, as provided. Both federal and state law authorize actions by victims of human trafficking, and sex trafficking in particular.

Given the incidence of trafficking in hotels and motels, and the desire to expand the authority of local prosecutors to go after entities that perpetrate or facilitate sex trafficking, this bill establishes a cause of action against hotels when sex trafficking occurs within their establishments. The two bases of liability are where

a supervisory employee knows of or recklessly disregards sexual trafficking that has occurred, or an employee acting within the scope of employment knowingly benefitted from the sexual trafficking, as provided.

The bill is sponsored by the author. The bill is supported by various organizations, including the American Association of University Women. It is opposed by the American Civil Liberties Union (ACLU) California Action based on concerns of involving law enforcement, lack of clarity on what triggers liability, and the potential to disrupt and harm consensual sex work.

Comments

According to the author:

> Human trafficking is the fastest-growing crime in the United States, and it is happening in seedy hotels and motels throughout all parts of California. AB 1788 would give local prosecutors and City Attorneys another tool to fight trafficking and save victims. This important bill makes it clear that California will no longer tolerate hotel and motel operators turning a blind eye towards this type of illegal activity.

Combatting the incidence of human trafficking in hotels and motels

This bill imposes liability on hotels in two circumstances. First, liability attaches where a "supervisory employee" knows of or is in reckless disregard of sex trafficking that occurred within the establishment and failed to inform law enforcement, the NHTH, or another appropriate victim service organization within 24 hours. A "supervisory employee" is one that either holds responsibility for duties that are not substantially similar to those of their subordinates; or any individual, regardless of the job description or title, who holds certain authority, in the interest of the employer, and the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

The second basis for liability is where an employee of the hotel, acting within the scope of employment, knowingly benefited, financially or by receiving anything of value, by participating in a venture that the employee knew or acted in reckless disregard of the activity constituting sex trafficking within the hotel.

This bill bolsters the existing authority to hold entities civilly liable for human trafficking. The federal Trafficking Victims Protection Act (TVPA), 18 U.S.C. § 1581 et seq., provides tools to combat human trafficking. Relevant here, it provides

an individual who is a victim of sex trafficking to bring a civil action against the perpetrator or whoever "knowingly benefits, financially or by receiving anything of value from participation in a venture which that person knew or should have known has engaged in" sex trafficking. The victim is authorized to recover damages and reasonable attorneys' fees. (18 U.S.C. § 1595(a).) The TVPA also authorizes the Attorney General of an affected state to bring an action against a person that engages in sex trafficking on behalf of the residents of the State to "obtain appropriate relief." (18 U.S.C. § 1595(d).)

In California, a victim of human trafficking, as defined, may bring a civil action for actual damages, compensatory damages, punitive damages, injunctive relief, any combination of those, or any other appropriate relief. A prevailing plaintiff may also be awarded attorney's fees and costs, as well as treble and punitive damages, as specified. (Civ. Code § 52.5.)

A civil action for enforcement of violations of this bill can only be brought by a city, county, or city and county attorney, who may seek injunctive and other equitable relief. They can also seek civil penalties of $1,000 for the first violation, $3,000 for the second violation within the same calendar year, and $5,000 for the third and any subsequent violations within the same calendar year. For fourth and subsequent violations, the court is also granted discretion to increase the penalty up to $10,000 based on a consideration of various factors, such as culpability and the defendant's ability to pay. Liability under the bill is imposed on the hotel itself, and the bill specifically provides that no liability arises pursuant to the bill against an employee.

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

According to the Senate Appropriations Committee, "Unknown, potentially-significant workload cost pressures to the courts to adjudicate alleged violations of this measure (Special Fund - Trial Court Trust Fund, General Fund)."

SUPPORT: (Verified 8/23/22)

American Association of University Women California
California District Attorneys Association
California State Sheriffs' Association
Junior League of Orange County, California
Peace Officers Research Association of California
One individual

OPPOSITION: (Verified 8/23/22)

ACLU California Action
Adult Industry Laborers and Artists Association

ARGUMENTS IN SUPPORT: The American Association of University Women California writes:

> "Hotels are required to provide training and education regarding human trafficking awareness. AB 1788 goes a step further by requiring supervisory employees to use that training and education to report sex trafficking when it occurs on the hotel property. The bill provides important civil penalties up to $5,000 (for a third offense) and $10,000 (for a fourth or greater offense) for hotels when a supervisory employee is aware of, or recklessly disregards sex trafficking occurring on the hotel property. The measure also imposes civil penalties when such an employee financially or otherwise benefits from sex trafficking occurring on the hotel property.

According to World Population Review (https://worldpopulationreview.com/):

> California consistently has the highest human trafficking rates in the United States, with 1,507 cases reported in 2019. 1,118 of these cases were sex trafficking cases, 158 were labor trafficking, and 69 were both sex and labor... Most of the sex trafficking cases reported in California were illicit massage and spa businesses and hotel or motel based.

ARGUMENTS IN OPPOSITION: ACLU California Action argues:

> AB 1788 continues to center a law enforcement response to human trafficking despite trafficking organizations' calls for public health approaches. The Coalition to Abolish Slavery & Trafficking (CAST), for example, has advocated for "[f]ocusing on human trafficking through a public health lens, as opposed to a criminal justice approach," recognizing that the "public health lens informs who intervenes and engages in the fight against human trafficking" and that "we cannot arrest our way out of human trafficking[.]" A recent report from the USC Gould School of Law International Human Rights Clinic also highlights the over-policing of sex trafficking and the need to utilize community and public health responses to trafficking in commercial sex. While the bill allows calling such organizations, as long as informing law enforcement is listed as one of the options to escape liability, that will seem like the easiest call to make for some hotels and will continue to further a law enforcement

response rather than a public health approach to human trafficking. AB 1788 would also harm sex workers and others who are not sex trafficking victims. By making hotels financially liable for not reporting sex trafficking activity, the bill incentivizes over-reporting by hotels to avoid civil penalties. This will undoubtedly put sex workers at jeopardy as hotels will report any suspected incidents of commercial sex activity rather than risk penalties of $1,000 or more. Sex work has been erroneously conflated by some with sex trafficking, further increasing the risk that sex workers will be harmed by this bill.

ASSEMBLY FLOOR: 65-0, 3/31/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Holden, Kalra, Kiley, Lackey, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Muratsuchi, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bryan, Gray, Irwin, Jones-Sawyer, Lee, Medina, Nazarian, Quirk-Silva, Robert Rivas, Rodriguez, Villapudua

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
8/26/22 15:36:16

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

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THIRD READING

Bill No: AB 1794
Author: Gipson (D)
Amended: 8/25/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 6/21/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, McGuire, Stern, Wiener

SENATE HUMAN SERVICES COMMITTEE: 5-0, 6/27/22
AYES: Hurtado, Jones, Cortese, Kamlager, Pan

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 70-0, 5/26/22 - See last page for vote

SUBJECT: Postadoption contact agreements: reinstatement of parental rights

SOURCE: Children's Law Center of California

DIGEST: This bill helps siblings maintain contact with each other when they are in the child welfare system and provides further avenues for some parents to have their parental rights reinstated after they have been terminated.

Senate Floor Amendments of 8/25/22 strike provisions that would allow the reinstatement of parental rights for children who have been adopted when the adoptive parent's parental rights remain intact. Additionally, the amendments clarify and limit when county placing agency shall not be required to convene a sibling contact agreement related meeting within 90 days after the termination of parent rights and prior to finalization of adoption, as specified. These amendments address opposition from the County Welfare Directors Association.

Senate Floor Amendments of 8/18/22 clarify the application of the provisions of this bill to Indian children adopted through a tribal customary adoptions, as well as

clarify the responsibility of adoptive parent(s) when parental rights are reinstated for a child, as provided.

ANALYSIS:

Existing law:

1) Makes legislative findings and declarations regarding the benefit of continuing contact between some adoptive children and their birth relatives and the importance of postadoption contact agreements, which can be beneficial to adoptive children under certain circumstances. States that nothing in California adoption laws shall be construed to prevent adopting parents from entering into a voluntary agreement with the child's birth relatives to permit continuing contact between the child and the birth relatives if the agreement is found by the court to have been executed voluntarily and to be in the best interests of the child at the time the adoption petition is granted. Limits the terms of a postadoption contact agreement to just sharing information about the child for any relative, other than the birth parents, who does not have a preexisting relationship with the child. Provides ways to seek enforcement of a post-adoption contact agreement, but requires the agreement to warn the parties that the adoption will not be set aside due to failure to comply with the terms of the postadoption contact agreement. (Fam. Code § 8616.5.)

2) Allows a court, in an appropriate action, to find that more than two persons with a claim for parentage are parents if the court finds that recognizing only two parents would be detrimental to the child. In determining detriment, requires the court to consider all relevant factors, including the harm of removing the child from a stable placement with a parent who has fulfilled the child's physical and psychological needs for a substantial period of time. Provides that a finding of detriment to the child does not require a finding of unfitness of any person. (Fam. Code § 7612.)

3) Creates an exception to the rule that adoption relieves the existing parents of all parental duties and responsibilities for an adopted child if the existing parents and the prospective adoptive parent sign a waiver at any time prior to finalization of the adoption. (Fam. Code § 8617.)

4) Creates an exception to the rule that adoption relieves the birth parents of all parental duties and responsibilities for the adoption of an adult child if the adult child chooses to sign a waiver of termination of parental duties and responsibilities prior to finalization of the adoption. (Fam. Code § 9306.)

5) Requires states to use "reasonable efforts" to place siblings together, unless such placement is contrary to their safety or well-being. If siblings are not placed together, visitation between them must occur frequently, unless it is contrary to their safety or well-being. (42 U.S.C. Sec. 671 (a).)

6) States that it is the intent of the Legislature to (a) ensure that siblings who are removed from a home will be placed in foster care together unless the placement is contrary to the safety or well-being of any sibling; and (b) when a child has been removed from the child's home and the child has siblings who remain in the custody of a parent subject to the court's jurisdiction, the court has the authority to develop a visitation plan for the siblings, unless it has been determined that visitation is contrary to the safety or well-being of any sibling. (Welf. & Inst. Code § 16002 (a).)

7) Requires the county adoption agency or the Department of Social Services (DSS), if parental rights are terminated and the court orders a dependent child or ward to be placed for adoption, to take steps to facilitate ongoing sibling contact, except in those cases where the court determines by clear and convincing evidence that sibling interaction is contrary to the safety or well-being of the child. Steps include:

   a) Providing training to prospective adoptive parents about the importance of sibling relationships to the adopted child and counseling on methods for maintaining sibling relationships and information about siblings of the child.

   b) To the extent practicable, requires the county placing agency to convene a meeting with the child, the siblings of the child, the prospective adoptive parents, and a facilitator for the purpose of deciding whether to voluntarily execute a postadoption sibling contact agreement after termination of parental rights and prior to finalization of the adoption. Provides that the county placing agency is not required to convene the meeting if the county placing agency determines that such a meeting or postadoption sibling contact agreement would be contrary to the safety and well-being of the child or the child requests that the meeting not occur. Allows the child to petition the court for an order requiring the county placing agency to convene a meeting to decide whether to voluntarily execute a postadoption sibling contact agreement. (Welf. & Inst. Code § 16200 (e).)

8) Sets forth procedures for enforcing postadoption contact agreements between siblings for children adopted through the child welfare system. Provides that the court granting the petition of adoption maintains jurisdiction over the child

for enforcement of the postadoption contact agreement. (Welf. & Inst. Code § 366.29.)

9) Requires a social worker, where possible and appropriate, to place a child, who has been removed from their parents or guardians because of abuse or neglect, together with their siblings or half-siblings also being removed, or to describe continuing efforts to place them together if they are not initially placed together, or to explain why placing them together is inappropriate. (Welf. & Inst. Code § 306.5.)

10) Requires any order placing a child in foster care to provide for visitation between a child and any siblings unless the court finds by clear and convincing evidence that sibling interaction is contrary to the safety and well-being of either child. Allows any person, including a child or nonminor dependent, to petition the juvenile court to assert a sibling relationship of a child or nonminor dependent. (Welf. & Inst. Code § 362.1.)

11) Provides that any order of the juvenile court terminating parental rights, as provided, is conclusive and binding to those with notice, but this does not limit the right to appeal the order. (Welf. & Inst. Code § 366.26 (i)(1).)

12) Allows, notwithstanding 10), a child, who has not been adopted after the passage of at least three years from the date the court terminated their parents' rights, and for whom the court has determined that adoption is no longer the permanent plan, to petition the juvenile court to reinstate parental rights, as provided. Allows the child to file the petition prior to the expiration of the three-year period, provided DSS, or the county child welfare adoption agency, and the child stipulate that the child is no longer likely to be adopted. If it appears that the best interests of the child may be promoted by reinstatement of parental rights, requires the court to order that a hearing be held. Requires the court to grant the petition if it finds by clear and convincing evidence that the child is no longer likely to be adopted and that reinstatement of parental rights is in the child's best interest. (Welf. & Inst. Code § 366.26 (i)(3).)

13) Allows parents, interested persons, and children or nonminor dependents to petition the juvenile court to modify an order issued in a dependency case based on a change of circumstances. (Welf. & Inst. Code § 388.)

14) Provides for the use of tribal customary adoption in the child welfare system to allow Indian children to be adopted without first terminating the birth parents' rights. (Welf. & Inst. Code § 366.24)

This bill:

1) Allows a postadoption contact agreement with birth relatives to include, for siblings, actual contact with the child, even if the siblings do not have a preexisting relationship with the child.

2) Adds siblings of nonminor dependents to the list of those required to get notice of hearings to terminate parental rights in dependency court.

3) Requires, except as provided in 4), if parental rights are terminated and the court orders that a dependent child or ward be placed for adoption, the county placing agency, except when the court determines that sibling interaction is contrary to the safety or well-being of the child, to convene a meeting, within 90 days of the termination of parental rights and prior to finalization of the adoption, with the child, the siblings of the child, the prospective adoptive parents, and a facilitator to execute a postadoption sibling contact agreement.

4) Prohibits, if the child being placed for adoption does not wish to enter into a postadoption sibling contact agreement, the county placing agency from convening the meeting in 3). Further prohibits the county placing agency from convening the meeting in 3) if the court, at the hearing to terminate parent rights, after considering the recommendation, if any, of the county placing agency, determines by clear and convincing evidence that sibling interaction is contrary to the safety or well-being of the child.

5) Allows, in addition to situations permitted in existing law, a child or nonminor dependent to petition the juvenile dependency court for reinstatement of parental rights in any of the following situations:

    a) A child for whom the parental rights of their biological parents were terminated, who was subsequently adopted, and for whom the parental rights of their adoptive parents have been terminated.

    b) A nonminor dependent for whom the court assumed dependency jurisdiction aft they stopped receiving support from their adoptive parents or whose adoptive parents died after the nonminor dependent turned 18 years of age, but before they attained 21 years of age.

    c) A child or nonminor dependent who is an Indian child, as defined, and for whole parental rights of their biological parents are modified by a tribal customary adoption, who was subsequently adopted, and for whom the parent rights of the adoptive parent or parents have been modified,

terminated, or who are in agreement with the reinstatement or modification of parental rights.

6) Requires a nonminor dependent or a child over 12 years of age to sign the petition in 5), absent a showing of good cause why the nonminor dependent or child cannot do so.

7) Requires the court to order a hearing on a petition in 5) if it appears that the best interest of the child or nonminor dependent may be promoted by reinstatement of parental rights. Sets forth notice requirements.

8) Requires, consistent with existing law, the court to grant the petition in 5) if it finds, by clear and convincing evidence, that the child is no longer likely to be adopted and that reinstatement of parental rights is in the child's best interest. Requires the court, if it reinstates parental rights over a child who is under 12 years of age and for whom the new permanent plan will not be reunification with a parent or legal guardian, to specify the factual basis for its findings that it is in the best interest of the child to reinstate parental rights, consistent with existing law. Provides that this provision is intended to be retroactive to any child under the jurisdiction of the juvenile court, consistent with existing law.

Background

This bill is sponsored by the Children's Law Center of California and supported by other organizations that advocate for children and youth in the child welfare system.

Comments

The author writes:

> Ensuring that those in the foster care system have access to the essential bond of a blood relative is a basic right any child deserves. Often, when parental rights are terminated in child welfare cases, the adopted child loses all familial ties, including with siblings. AB 1794 looks to address the gaps and inconsistencies in implementation of current law surrounding siblings who are separated by adoption. This bill would allow children and young adults adopted through the child welfare system to maintain critical connections to their biological family and community. Additionally, in some circumstances, a child/nonminor dependent may re-establish a relationship with their biological parents when an adoption fails. It makes sense for these children, who want to live with their birth parents, to have an option to reinstate the biological parents' rights; however, there is no mechanism for this process to occur.

Unless it has been determined that placement together is contrary to the safety and well being of any sibling. AB 1794 provides a path forward for these families. We have plenty more work to do. But, this is a step toward a better foster care system.

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

According to the Senate Appropriations Committee, unknown ongoing cost pressures to the trial courts in increased staff workload for family courts to review additional information pertaining to postadoption agreements and parental termination cases (Special Fund - Trial Court Trust Fund, General Fund)… Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund and staff workload may create a need for increased funding for courts from the General Fund (GF) to perform existing duties. Numerous trial court operations are funded through the imposition and collection of criminal fines and fees. However, the Legislature has reduced and eliminated criminal fines and fees over the past five years. As a result, the 2022-23 Budget includes an ongoing annual allocation of $151.5 million and a one-time allocation of $10.3 million backfill from the General Fund in order to address declining revenue to the Trial Court Trust Fund.

SUPPORT: (Verified 8/25/22)

Children's Law Center of California (source)
ACLU California Action
California Catholic Conference
California Youth Connection
Los Angeles Dependency Lawyers, Inc.
National Association of Social Workers, California Chapter

OPPOSITION: (Verified 8/25/22)

None received

ASSEMBLY FLOOR: 70-0, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian,

Nguyen, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Rendon
NO VOTE RECORDED: Berman, Bigelow, Gray, Jones-Sawyer, O'Donnell, Patterson, Villapudua, Wood

Prepared by: Marisa Shea / HUMAN S. / (916) 651-1524
8/26/22 15:36:16

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

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THIRD READING

Bill No: AB 1797
Author: Akilah Weber (D), et al.
Amended: 8/17/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 8-1, 6/22/22
AYES: Pan, Eggman, Gonzalez, Leyva, Limón, Roth, Rubio, Wiener
NOES: Melendez
NO VOTE RECORDED: Grove, Hurtado

SENATE EDUCATION COMMITTEE: 5-2, 6/30/22
AYES: Leyva, Cortese, Glazer, McGuire, Pan
NOES: Ochoa Bogh, Dahle

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 54-20, 5/26/22 - See last page for vote

SUBJECT: Immunization registry

SOURCE: California Immunization Coalition
ProtectUS
San Diego Unified School District

DIGEST: This bill requires, rather than permits, health care providers and specified agencies that have access to immunization information to disclose certain information from a patient medical record or a client record to the California Department of Public Health and local health departments. This bill adds "patient's or client's race and ethnicity" to the list of information collected for purposes of immunization information and reminder systems. This bill adds two purposes that health care providers and education, childcare, and human services agencies may use individual immunization information.

Senate Floor Amendments of 8/17/22 require health care providers to collect an immunization patient's race *and* ethnicity. This bill previously said race *or* ethnicity.

ANALYSIS:

Existing law:

1) Permits local health officers (LHOs) to operate immunization information systems in conjunction with the Immunization Branch of the California Department of Public Health (CDPH) either separately within their individual jurisdictions or jointly among more than one jurisdiction. The largest regional registry is referred to as the California Immunization Registry or "CAIR2." [HSC §120440(b)]

2) Permits health care providers and specified agencies (such as schools, childcare facilities, and human services agencies), unless a refusal to permit record sharing is made, to disclose the information specified in 3) below from the patient's medical record, or the client's record, to local health departments (LHDs) and CDPH. Permits LHDs and CDPH to disclose this information to each other and, upon a request for information pertaining to a specific person, to health care providers taking care of the patient, the Medical Board of California, and the Osteopathic Medical Board of California. Permits LHDs and CDPH to disclose this information to schools, childcare facilities, county human services agencies, family childcare homes, foster care agencies, California Special Supplemental Food Program for Women, Infants, and Children (WIC) service providers, and health plans, as specified. [HSC §120440(c)]

3) Requires information included in the immunization information systems to be:

    a) The name of the patient/client and names of the parents/guardians of the patient/client and their current address and telephone number;

    b) Types and dates of immunizations received by the patient/client;

    c) Manufacturer and lot number for each immunization received;

    d) Adverse reaction to immunizations received;

    e) Nonmedical information necessary to establish the patient's/client's unique identity and record, including their gender, date of birth, place of birth, and

information needed to comply with California's immunization mandates; and,

f) Results of tuberculosis screening.

4) Requires health care providers, LHDs, and CDPH to maintain the confidentiality of this information in the same manner as other medical record information with patient identification that they possess. Subjects providers, LHDs, CDPH, and contracting agencies to civil action and criminal penalties for the wrongful disclosure of this information. Requires providers, LHDs, and CDPH to use this information only for these specified purposes: to provide immunization services; to provide or facilitate provision of third-party payer payments for immunizations; and, to compile and disseminate statistical information of immunization status on groups of patients or clients or populations, as specified. [HSC §120440(d)(1)]

5) Requires schools, childcare facilities, family childcare homes, WIC service providers, foster care agencies, county human services agencies, and health care plans to maintain the confidentiality of this information in the same manner as other client, patient, and pupil information that they possess. Subjects these institutions and providers to civil action and criminal penalties for the wrongful disclosure of the information. Requires these institutions and providers to use the information only for the following purposes:

   a) In the case of schools, childcare facilities, family childcare homes, and county human services agencies, to carry out their responsibilities regarding required immunization for attendance or participation benefits, or both;

   b) In the case of WIC service providers, to perform immunization status assessments of clients and to refer those clients found to be due or overdue for immunizations to health care providers;

   c) In the case of health plans, to facilitate payments to health care providers, to assess the immunization status of their clients, and to tabulate statistical information on the immunization status of groups of patients, without including patient-identifying information in these tabulations; and,

   d) In the case of foster care agencies, to perform immunization status assessments of foster children and to assist those foster children found to be due or overdue for immunization in obtaining immunizations from health care providers. [HSC §120440(d)(1)]

6) Permits a patient or their parent/guardian to refuse to permit record sharing. Requires the health care provider administering an immunization and any other agency possessing any patient/client information, if planning to provide patient or client information to an immunization system, to inform the patient/client, their parent/guardian, the following information:

   a) The information listed in 3) above may be shared with LHDs and CDPH;

   b) Any information shared with LHDs or CDPH will be treated as confidential medical information and will be used only to share with each other, and, upon request, with health care providers specified agencies, which all are required to treat that information confidential;

   c) The patient/client, or their parent/guardian, has the right to examine any immunization-related information or tuberculosis screening results shared to correct any errors in it; and,

   d) The patient/client, or their parent/guardian, may refuse to allow this information to be shared or to receive immunization reminder notifications at any time, or both. After refusal, the patient's/client's physician may maintain access to this information for the purposes of patient care or protecting the public health. After refusal, LHDs and CDPH may maintain access to this information for the purpose of protecting the public health. [HSC §120440(e)]

7) Prohibits this information from being shared if a patient/client, or their parent/guardian, refuses to allow the sharing of immunization information. [HSC §120440(l)]

This bill:

1) Requires, rather than permits, health care providers and specified agencies that have access to immunization information to disclose certain information from a patient medical record or a client record to LHDs and CDPH.

2) Adds "patient's or client's race and ethnicity" to the list of information collected for purposes of local/regional immunization information and reminder systems and CAIR2.

3) Adds the following to the purposes that health care providers, education, childcare, and human services agencies may use immunization information: in the case of schools, childcare facilities, family childcare homes, and county human services agencies; for the COVID-19 public health emergency; and, to

perform immunization status assessments of pupils, adults, and clients to ensure health and safety.

4) Specifies that in the case of schools, this only applies if the school's governing board/body has adopted a policy mandating COVID-19 immunization for school attendance and the school limits the use of the data to verifying immunization status for this purpose.

Comments

1) *Author's statement.* According to the author, this bill updates the use and functionality of CAIR2 to keep schools open and safe during the current pandemic by authorizing and streamlining schools' ability to verify their student's vaccine record. This bill will also bolster data submissions to support health equity and accuracy by ensuring all relevant practitioners are entering immunization data and also requiring race and ethnicity information.

2) *CAIR2.* CAIR2 confidential, statewide immunization information system for California residents. The CAIR2 system consists of 8 regions: Northern California, Greater Sacramento Area, Bay Area, Central Valley, Central Cost, Los Angeles-Orange, Inland Empire, Imperial, and San Diego). According to CDPH, the registry is accessed online to help providers and other authorized users track patient immunization records, reduce missed opportunities, and help fully immunize Californians of all ages. California law allows health care providers to share patient immunization information with an immunization registry as long as the patient (or their parent or legal guardian) is informed about the registry. Patients also have the right to 'lock' the record in CAIR2, so that immunization information is only visible to the patient's provider. Participation in CAIR2 is voluntary and is open to healthcare providers, schools, childcare facilities, county welfare departments, family childcare homes, foster care agencies, WIC service providers, and health care plans. To participate, an organization must enroll in CAIR2 and agree to maintain the confidentiality of the patient immunization information and only use the information to provide patient care or to confirm that childcare or school immunization requirements have been met. Health care providers and other authorized users can access patient immunization information, determine vaccinations due, enter new patients or vaccine doses administered, remind or recall patients due for immunizations, and run patient reports. RIDE is California's only other immunization registry, which serves a similar function in the Central Valley counties of San Joaquin, Stanislaus, Merced, Amador, Calaveras, Alpine, Tuolomne, and Mariposa.

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

According to the Senate Appropriations Committee:

- CDPH estimates state staffing costs of approximately $950,170 over the first two years and $303,216 ongoing thereafter (General Fund).
- Unknown costs to local school districts, health departments and other entities to disclose immunization information to LHDs and CDPH. Costs to local agencies and school districts may be reimbursable by the state, subject to a determination by the Commission on State Mandates.

SUPPORT: (Verified 8/16/22)

California Immunization Coalition (co-source)
ProtectUS (co-source)
San Diego Unified School District (co-source)
American Academy of Pediatrics, California
Association of California School Administrators
California Academy of Family Physicians
California Dental Association
California Immunization Coalition
California Medical Association
California Pan-Ethnic Health Network
California School Nurses Organization
Los Angeles County Board of Supervisors
Los Angeles Unified School District
Sacramento City Unified School District
San Diego Unified School District
Teens for Vaccines

OPPOSITION: (Verified 8/16/22)

A Voice for Choice Advocacy
California Catholic Families for Freedom
California Health Coalition Advocacy
Children's Health Defense - California Chapter
City of Santa Clarita
Committee to Support Parental Engagement in Santa Clarita School Districts
Eagle Forum of California
Educate. Advocate.
Feather River Tea Party Patriots

National Vaccine Information Center
Natomas USD for Freedom
Nuremberg 2.0
Protection of the Educational Rights of Kids
Real Impact
Stand Up Sacramento County
Whittier Parents for Choice
Eight individuals

ARGUMENTS IN SUPPORT: The California Immunization Coalition, San Diego Unified School District, ProtectUS are the sponsors of this bill and state that this bill allows access to critical immunization information in a public health emergency to perform immunization status assessments, and to ensure the health and safety of school communities. This bill will ensure that immunization information is available in the event of a public health emergency. This information is already collected and available in county and State data systems. San Diego Unified states that this information is critical during a public health emergency to assess the health and safety of our school sites, and to determine whether there are specific schools that need additional support to access vaccines.

The American Academy of Pediatrics, California, the California Academy of Family Physicians and the California Medical Association state in support that this bill promotes uniform health and safety protocols and aligns with the intent of existing vaccination statutes putting children's health above any non-scientific concerns or considerations. They indicate the proposed updates will require healthcare practitioners to ensure that data on the vaccines they administer is entered into the registry and that the patient's race/ethnicity data is recorded, along with authorizing schools to view data on all vaccines related to student safety.

ARGUMENTS IN OPPOSITION: A Voice for Choice Advocacy is opposed unless amended, and states:

1) The multitude of data discrepancies currently in CAIR2 need to be addressed;

2) Patients and parents of patients should be allowed to opt-in to the immunization registries;

3) Database privacy should be in line with other California medical databases such as the California's Controlled Substance Utilization Review and Evaluation System database; and,

4) Records granted disclosure from the patient should maintain the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Family Educational Rights and Privacy Act (FERPA) privacy rights if further shared.

Opponents of this bill, including the Children's Health Defense - California Chapter, argue that current laws and procedures are sufficient to maintain safety in childcare homes, facilities, classrooms and at schools. Opponents are concerned this bill will lead to discrimination and segregation that would be an unnecessary overreach. California already has strict regulations regarding conditions of enrollment regarding immunizations as well as health and safety requirements for attendance. Furthermore, there are concerns receiving basic needs from government human service agencies will be held at ransom from recipients based on vaccine status. The opponents conclude that those who utilize human service agencies in California must be able to receive basic care regardless of vaccine status, and that can only be guaranteed if this bill does not move forward.

ASSEMBLY FLOOR: 54-20, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cooley, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Gray, Nazarian, O'Donnell

Prepared by: Melanie Moreno / HEALTH / (916) 651-4111
8/19/22 13:09:00

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

SENATE RULES COMMITTEE AB 1800
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1800
Author: Low (D)
Amended: 8/24/22 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 17-0, 6/28/22
AYES: Newman, Bates, Allen, Archuleta, Becker, Cortese, Dahle, Dodd, Hertzberg, Limón, McGuire, Melendez, Min, Rubio, Skinner, Wieckowski, Wilk

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 75-0, 5/26/22 - See last page for vote

SUBJECT: Driver's licenses: bone marrow and blood stem cell registry

SOURCE: Author

DIGEST: This bill requires the Department of Motor Vehicles (DMV) to ask on the driver's license (DL) form whether an applicant wishes to register to be a bone marrow donor and authorizes DMV to share an applicant's contact information with the National Marrow Donor Program.

Senate Floor Amendments of 8/24/22 strengthen the privacy provisions of the bill by prohibiting the National Marrow Donor Program from disseminating information received from the DMV.

ANALYSIS:

Existing law:

1) Authorizes Donate Life California, a non-profit entity, to maintain the registry for people who have identified themselves as organ, eye, and tissue donors upon their death.

2) Requires DMV to ask verbally of all applicants for original or renewal DL or identification (ID) cards if they want to become organ and tissue donors.

3) Requires DMV to enter into a memorandum of understanding (MOU) with Donate Life California regarding the language on the DL form regarding enrollment.

4) Requires DMV to print the word “DONOR” on the face of a DL or ID card to any registrant.

This bill:

1) Requires DMV to ask during the DL application process if the applicant wishes to become a potential bone marrow or blood stem cell donor by enrolling in the National Marrow Donor Program's registry.

2) Requires DMV to enter into a MOU with the National Marrow Donor Program on the language to be included on the DL application form, including definitions of enrollment and donor requirements, as well as legal disclosures.

3) Requires DMV to transmit applicants' full name, mailing address, date of birth, telephone number, and email address on a weekly basis to the National Marrow Donor Program's registry, and prohibit the Program from further disseminating such information.

4) Requires DMV to post the enrollment form on DMV's website.

5) Requires the California Health and Human Services Agency to post the enrollment form on their website.

6) Becomes effective January 1, 2027.

Comments

1) *Purpose of this bill*. According to the author, "In the United States, less than 30% of patients can find a fully matched bone marrow donor in their family or network. It is especially hard for people of color to find a donor due to the lack of diversity in donors. In order to make bone marrow more accessible to save the lives of patients, it is chief that we increase the number of donors. AB 1800 would predictably increase the number of bone marrow donors by expanding awareness for the ability to donate. Educating Californians through the DMV has been proven effective by the increase of organ donors in the United States

following the DMV's option to enroll. Increasing the number of donors will not only save lives but will also increase equality among all recipients."

2) *Anatomical Donations*. The Uniform Anatomical Gift Act (Act) was passed in the US in 1968 and has since been revised in 1987 and in 2006. The Act sets a regulatory framework for the donation of organs, tissues, and other human body parts in the US pursuant to state statutes. An individual who is at least 18 years of age may make an anatomical gift by a signed document on the Donate Life California website or an interested individual can sign up electronically by checking "YES!" at the DMV when applying for or renewing a DL or ID. Since 2001, the DMV has provided Californians the opportunity to register as Organ and Tissue Donors using its DL and ID application forms. Today, there are over 17.5 million Californians registered to be organ donors, over 95% of whom enrolled when they applied for a DMV DL or ID card.

   The National Marrow Donor Program (NMDP) is a nonprofit organization founded in 1986 that operates the Be the Match Registry of volunteer hematopoietic cell donors and umbilical cord blood units in the United States. According to Be the Match, there are 25 million donor registrants, nearly 12.5 million of which are in the United States. 1.1 million are in California. From 2016-2020, 1,691 Californians were donors, while 5,339 California patients were looking for a donor.

   According to *Getting to the Heart of Being the Match: A Quantitative Analysis of Bone Marrow Donor Recruitment and Retention Among College Students*, in the U.S. over 20,000 individuals each year have been diagnosed with severe or life threating diseases that can be treated by a bone marrow or umbilical cord blood transplant from matched donors. Only 30% of people needing a bone marrow transplant are able to get one from a family member. The other 70% have to rely on the registry.

   AB 1800 requires the DMV to include a question during application for a new or renewed DL for the applicant to opt-in to register with the NMDP during the application for a new or renewed drivers' license. AB 1800 is an attempt to facilitate more marrow donors across to the state to keep up with the rising demand.

3) *DMV Modernization*. Currently, the DMV is modernizing their IT systems. This update requires the DMV to place its "core legacy" IT system in "freeze mode," meaning that all new laws that require the DMV to make any IT updates must be delayed to accommodate the modernization efforts. AB 1800 requires the DMV to program into their systems a database of individuals who have

agreed to share their information, including contact information, with Be the Match. As contact information is not currently collected by the DMV during the DL application process, this would cause programming challenges for the DMV. In addition, DMV will need to work with the National Marrow Donor Program to develop an MOU governing the language to be included on the driver's license application. This bill has a delayed operative date of January 1, 2027, to account for this modernization effort.

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

According to the Senate Appropriations Committee:

- DMV indicates that one-time costs to implement this bill by 2027 are not quantifiable at this time because programming will be required on the department's modernized platform, which will not be complete until after the 2025-26 fiscal year. Staff estimates one-time minor to moderate costs in 2026-27, potentially up to the low hundreds of thousands of dollars, to modify forms and publications, conduct necessary programming to its electronic driver's license and identification card application, as well as online and kiosk renewal systems, and enter into an MOU with the NMDP. (Motor Vehicle Account)

- DMV would also incur unknown, likely minor to moderate ongoing costs to collect and transmit potential donor information to the NMDP, and for staff time to answer questions in field offices. (Motor Vehicle Account)

SUPPORT: (Verified 8/25/22)

California Catholic Conference
Stanford Health Care
The Leukemia & Lymphoma Society

OPPOSITION: (Verified 8/25/22)

None received

ASSEMBLY FLOOR: 75-0, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee,

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

Prepared by: Randy Chinn / Katie Bonin / TRANS. / (916) 651-4121
8/26/22 15:36:17

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1803
Author: Jones-Sawyer (D)
Amended: 8/22/22 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 6/21/22
AYES: Bradford, Kamlager, Skinner, Wiener
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 51-17, 5/26/22 - See last page for vote

SUBJECT: Court fees: ability to pay

SOURCE: Coalition of California Welfare Rights Organizations

DIGEST: This bill exempts a person who meets the criteria for a waiver of court fees and costs from being obligated to pay the filing fee for specified expungement petitions, and prohibits a court from denying expungement relief to an otherwise qualified person, and who meets the criteria, as specified, for a waiver of court fees and costs, solely on the basis that the person has not yet satisfied their restitution obligations.

Senate Floor Amendments of 8/22/22 take care of a potential conflict between this bill and SB 1106 (Wiener) providing that if this bill and SB 1106 are both signed, the overlapping provisions in SB 1106 will take precedence.

ANALYSIS:

Existing law:

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

2) Specifies that if expungement relief is granted, the person is released from the penalties and disabilities resulting from the conviction, except as specified. (Penal Code, § 1203.4, (a) & (c).)

3) States that a person who petitions for expungement may be required to reimburse the court for the actual costs of services rendered, whether or not the petition is granted, at a rate to be determined by the court, not to exceed $150. (Penal Code § 1203.4 (d).)

4) States that a person who petitions for expungement may be required to reimburse the county for the actual costs of services rendered, whether or not the petition is granted, at a rate to be determined by the county board of supervisors, not to exceed $150. (Penal Code § 1203.4 (d).)

5) States that a person who petitions for expungement may be required to reimburse the city for the actual costs of services rendered, whether or not the petition is granted, at a rate to be determined by the city council, not to exceed $150. (Penal Code § 1203.4 (d).)

6) Authorizes the court to order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the costs. (Penal Code § 1203.4 (d).)

7) Provides that the ability to pay the reimbursement fees for expungement shall not be a prerequisite to a person's eligibility for expungement. (Penal Code § 1203.4 (d).)

8) Provides that the ability to pay the reimbursement fees for expungement shall be determined by the court using the following standards:

    a) The defendant's present financial position;

b) The defendant's reasonably discernible future financial position, as specified;

c) The likelihood that the defendant will be able to obtain employment within a six-month period from the date of the hearing; and

d) Any other factor that may bear upon the defendant's financial capability to reimburse the county for the costs of the legal assistance provided to the defendant. (Penal Code, §§ 1203.4 (d); 987.8(g)(2).)

9) Permits the following persons to proceed without paying court fees and costs because of their financial conditions, in specified court proceedings:

a) A person who is receiving public benefits under one or more specified programs including, Supplemental Security Income (SSI), State Supplementary Payment (SSP), California Work Opportunity and Responsibility to Kids Act (CalWORKs), federal Tribal Temporary Assistance for Needy Families (Tribal TANF) grant program, Supplemental Nutrition Assistance Program (SNAP), the California Food Assistance Program, County Relief, General Relief (GR), or General Assistance (GA), Cash Assistance Program for Aged, Blind, and Disabled Legal Immigrants (CAPI), In-Home Supportive Services (IHSS), and Medi-Cal;

b) A person whose monthly income is 125 percent or less of the current poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of paragraph (2) of Section 9902 of Title 42 of the United States Code; and,

c) A person who, as individually determined by the court, cannot pay court fees without using moneys that normally would pay for the common necessaries of life for the person and the person's family, as specified. (Government Code § 68632.)

10) Prohibits the imposition of excessive fines. (Cal. Const., Art. 1, § 17.)

11) States that the Legislature finds and declares that our legal system cannot provide "equal justice under law" unless all persons have access to the courts without regard to their economic means; that California law and court procedures should ensure that court fees are not a barrier to court access for those with insufficient economic means to pay those fees; that fiscal responsibility should be tempered with concern for litigants' rights to access

the justice system; that the procedure for allowing the poor to use court services without paying ordinary fees must be one that applies rules fairly to similarly situated persons, is accessible to those with limited knowledge of court processes, and does not delay access to court services; and that the procedure for determining if a litigant may file a lawsuit without paying a fee must not interfere with court access for those without the financial means to do so. (Gov. Code § 68630.)

12) Requires, in addition to any other penalty imposed, the defendant to pay both, a restitution fine and restitution to the victim, which is enforceable as a civil judgment. (Penal Code, § 1202.4 (a)(3).)

13) Provides that, if the defendant is convicted of a felony, the restitution fine shall not be less than $300 and not more than $10,000. If the defendant is convicted of a misdemeanor, the restitution fine shall not be less than one $150 and not more than one thousand dollars $1,000. (Penal Code § 1202.4 (b)(1).)

14) States that a defendant's inability to pay shall not be considered a reason not to impose a restitution fine. A defendant's inability to pay may be considered as a relevant factor in setting the amount of the restitution fine in excess of the minimum. (Penal Code § 1202.4 (c), (d).)

15) Exempts the restitution fine from various penalty assessments. (Penal Code, § 1202.4 (e).)

16) Allows the county board of supervisors to impose a fee to cover the actual administrative cost of collecting the restitution fine, not to exceed 10 percent of the amount of the restitution fine. (Penal Code § 1204.4 (l).)

17) Provides that a crime victim who incurs an economic loss as a result of the crime shall receive restitution directly from a defendant convicted of the crime. (Penal Code § 1202.4 (a).)

18) Provides that a restitution order shall be of a dollar amount that is sufficient to fully reimburse the victim or victims for every determined economic loss incurred as the result of the defendant's criminal conduct, including but not limited to medical expenses, mental health counseling expenses, wages or lost profits, noneconomic losses, including psychological harm, interest at the rate of 10 percent per annum, actual and reasonable attorney's fees, and relocation fees. (Pena; Code § 1204.5 (f)(3).)

19) Provides that a defendant's inability to pay shall not be a consideration in determining the amount of a restitution order. (Penal Code § 1204.5 (g).)

20) Requires, in every case in which the defendant is granted probation, the court to make the payment of restitution fines and restitution orders a condition of probation. (Penal Code § 1204.4 (m).)

This bill:

1) Provides that person seeking relief pursuant to Sections 1203.4, 1203.41, 1203.42, and 1203.45, and who meets the criteria set forth in Section 68632 of the Government Code shall not be required to reimburse the court, the county, or any city for the actual costs of services rendered, whether or not the petition is granted and records are sealed or expunged.

2) Provides that if a person otherwise qualifies to have their records sealed or expunged pursuant to this chapter, relief under this chapter shall not be denied to a person who meets the criteria set forth in Section 68632 of the Government Code and whose probation was conditioned on making victim restitution, solely on the basis that the person has not satisfied their restitution obligation.

Background

According to the author:

> California courts charge fees and costs in addition to the penalties resulting from criminal convictions. However, these added financial penalties are not reinvested into rehabilitative purposes, and the state has also acknowledged only a *fractio*n of fees can be collected since there are defendants who do not have the means to pay. Adding fees on top of already-served criminal penalties further punishes low-income Californians and impedes access to services, such as petitioning for expungement.
>
> In 2019, a state appeals court ruled that charging defendants fees without first assessing their ability-to-pay violates both the state and U.S. Constitutions. Consequently, individuals who petition for expungement can have their court fees waived if they would face an undue financial hardship. However, petitioners must prove their inability to pay at a separate hearing. This not only adds to courts' operational costs and prolongs the expungement process, but also increases financial burdens to petitioners, such as requiring them to take time off from work or find accommodations for transportation.

By guaranteeing court fee waivers to petitioners who face undue financial hardship, California would eliminate the need to hold a separate ability-to-pay hearing. In doing so, this will bring parity with the current practice of providing financial relief to individuals with low-income, and remove the extra, burdensome time and operational costs associated with holding a hearing that results in the petitioner not having to pay court fees and costs in the first place.

AB 1803 streamlines the ability-to-pay process by guaranteeing court fees are waived if a petitioner seeking expungement meets the requirements of Government Code §68632. This includes individuals receiving: Medi-Cal; Food Stamps, i.e. California Food Assistance Program, CalFresh Program, or SNAP; State Supplemental Payment (SSP) and State Supplemental Security Income (SSI); County Relief (CR), General Relief (GR), or General Assistance (GA); In-Home Supportive Services; Tribal Temporary Assistance for Needy Families (TANF); Cash Assistance Program for Aged, Blind, or Disabled Legal Immigrants; and, Individuals whose monthly income is 125% or less of the current poverty guidelines.

Further, to be clear, this bill does *not* waive restitution payments – it merely waives the administrative court fees. As such, this bill ensures low-income petitioners seeking the fee waiver will still need to meet existing requirements to receive expungement, and petitioners who do receive the fee waiver will still be required by law to continue making restitution payments.

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

According to the Senate Appropriations Committee, likely loss of revenue to the judicial branch, potentially in the mid to high hundreds of thousands annually, as a result of fewer fee collections. (Special Fund – Trial Court Trust Fund). Staff notes a potential for increased restitution payments (Special Fund – Restitution Fund).

SUPPORT: (Verified 8/11/22)

Coalition of California Welfare Rights Organizations (source)
Black Leadership Council
California Attorneys for Criminal Justice
California Public Defenders Association
Initiate Justice
Los Angeles County District Attorney's Office

National Association of Social Workers, California Chapter

OPPOSITION: (Verified 8/11/22)

None received

ARGUMENTS IN SUPPORT: California Attorneys for Criminal Justice support this bill saying:

> In some counties, court clerks refuse to accept petitions for relief unless a fee is paid in advance, or require the petitioner to submit an application for a fee waiver before the petition is officially filed with the court and a hearing is set.
>
> AB 1803 would prevent the court from denying relief based on ability to pay if the petitioner is receiving certain public benefits, such as Supplemental Security Income or Medi-Cal, or has a monthly income of 125% or less of the current poverty guidelines.

ASSEMBLY FLOOR: 51-17, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Carrillo, Cervantes, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Ward, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares
NO VOTE RECORDED: Berman, Calderon, Gray, Irwin, O'Donnell, Petrie-Norris, Villapudua, Voepel, Waldron, Akilah Weber

Prepared by: Mary Kennedy / PUB. S. / 8/23/22 13:23:14

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

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THIRD READING

Bill No: AB 1809
Author: Aguiar-Curry (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 9-0, 6/22/22
AYES: Pan, Melendez, Eggman, Gonzalez, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Grove, Hurtado

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 57-0, 5/26/22 - See last page for vote

SUBJECT: Nursing Facility Resident Informed Consent Protection Act of 2022

SOURCE: California Advocates for Nursing Home Reform

DIGEST: This bill requires a prescriber, prior to prescribing a psychotherapeutic drug for a nursing home resident, to personally examine and obtain the informed written consent of the resident or their representative, and requires specified information to be disclosed when obtaining informed written consent.

Senate Floor Amendments of 8/25/22 add a provision that permits the California Department of Public Health to implement, interpret, or make specific this bill by means of an All Facilities Letter without taking any regulatory action.

ANALYSIS:

Existing law:

1) Licenses and regulates skilled nursing facilities (SNFs) and intermediate care facilities (ICFs) by the California Department of Public Health (CDPH). [HSC §1250 (c) and (d)]

2) Permits an attending physician and a SNF or ICF to initiate a medical intervention for a resident of a SNF or ICF that requires informed consent, when the physician has determined the resident lacks the capacity to make health care decisions and there is no person with legal authority to make those decisions on behalf of the resident. [HSC §1418.8 (d)]

3) Specifies that a resident lacks capacity to make a decision regarding his or her health care if the resident is unable to understand the nature and consequences of the proposed medical intervention, or is unable to express a preference regarding the intervention. Requires the physician, in making a determination regarding capacity, to interview the resident, review the resident's medical records, and consult with SNF or ICF staff, and family members and friends of the resident, if any have been identified. [HSC §1418.8 (b)]

4) Specifies that a person with legal authority to make medical decisions on behalf of a resident is a person designated under a valid Durable Power of Attorney for Health Care, a guardian, a conservator, or next of kin. Requires a physician to interview the resident, review medical records, and consult with SNF or ICF staff, and with family members and friends, if identified, in order to determine the existence of a person with legal authority. [HSC §1418.8 (c)]

Existing regulations:

1) Requires, for purposes of informed consent in SNFs and ICFs, that information material to a decision concerning the administration of a psychotherapeutic drug or physical restraint, to include specified information, including the nature, degree, duration, and probability of side effects and significant risks, and reasonable alternative treatments and risks. [22 CCR §72528(b)]

2) Requires, prior to initiating the administration of psychotherapeutic drugs, SNF or ICF staff to verify that the patient's health record contains documentation that the patient has given informed consent. [22 CCR §72528(c)]

3) Defines "psychotherapeutic drug," for purposes of requirements pertaining to SNFs and ICFs, as a medication to control behavior or to treat though disorder processes. [22 CCR §72092]

This bill:

1) Requires a prescriber, prior to prescribing a psychotherapeutic drug for a nursing home resident, to personally examine and obtain the informed written consent of the resident or the resident's representative.

2) Defines terms for purposes of this bill, including that "psychotherapeutic drug" means a drug to control behavior or to treat thought disorder processes but excludes antidepressants; and "representative" means an individual who has authority to act on behalf of the resident, including a conservator, guardian, person authorized as agent in the resident's advanced health care directive, the resident's spouse, registered domestic partner, or family member, a person designated by the resident, or other legally designated individual.

3) Requires the prescriber to communicate, and the written consent form to contain, in a language the resident understands, the information a reasonable person in the resident's condition and circumstances would consider material to a decision to accept or refuse the drug.

4) Requires the written consent form to be signed by the resident or their representative, and to also be signed by a health care professional who declares the resident or resident representative has been provided the material information. Requires copies of the signed consent form to be given to the resident and their representative.

5) Permits the use of remote technology, including, but not limited to, telehealth, to allow a prescriber to examine and obtain informed written consent, and permits the prescriber, the resident, or the resident's representative to use electronic signatures.

6) Specifies that if the signature of the resident or resident's representative cannot be obtained, requires a licensed nurse to sign the form and verify that they confirmed informed consent with the resident or resident's representative and to state the name of the person with whom they verified consent and the date.

7) Requires the SNF or ICF, within six months after the consent form is signed and every six months thereafter during which the resident receives a psychotherapeutic drug, to provide a written notice to the resident and the resident's representative, of any recommended dosage adjustments and the resident's right to revoke consent and to receive gradual dose reductions and behavioral interventions in an effort to discontinue the psychotherapeutic drug.

8) Requires the prescriber to provide, in addition to the information required in specified regulations governing informed consent in SNFs and ICFs, the following additional information material to an informed consent decision concerning the administration of a psychotherapeutic drug:

    a) Possible nonpharmacologic approaches that could address their needs;

b) Whether the drug has a boxed warning label along with a summary and information on how to find the contraindications and warnings required by the United States Food and Drug Administration (FDA);

c) Whether a proposed drug is being prescribed for a purpose that has not been approved by the FDA;

d) Possible interactions with other drugs the resident is receiving; and,

e) How the facility and prescriber will monitor and respond to any adverse side effects and inform the resident of side effects.

9) Requires facility staff, before initiating treatment with psychotherapeutic drugs, to verify that the resident's health record contains a written consent form with the required signatures. Requires facility staff, for a prescription written prior to the admission and encompassing the admission of the resident, to verify that the resident provided informed consent or refused treatment or a procedure pertaining to the administration of psychotherapeutic drugs.

10) Requires residents' rights policies and procedures established pursuant to this bill concerning informed consent to specify how the facility will verify that the resident provided informed consent or refused treatment or a procedure pertaining to the administration of psychotherapeutic drugs.

11) Requires CDPH to inspect SNFs and ICFs for compliance with this bill during required periodic inspections and, as appropriate, during complaint investigations. Prohibits this inspection requirement from limiting CDPH's authority in other circumstances to cite for violations or to inspect for compliance with this bill.

12) Deems a violation of the requirement for facility staff to verify that a resident has a signed written consent form prior to the administration of psychotherapeutic drugs to have caused the affected residents harm and to constitute a class "B," "A," or "AA" violation pursuant to the standards under existing law for these violations.

13) Specifies that in addition to any other penalties, the willful or repeated violation of this bill is punishable as a misdemeanor unless there is an emergency as described in specified regulations.

14) Requires CDPH, upon appropriation by the Legislature, to use funds from the State Health Facilities Citation Penalties Account to develop an informed consent form, a model disclosure statement for providing material information

necessary to providing informed consent for use of psychotherapeutic medication, a model notification statement of the resident's right to withdraw informed consent, and provide related education and training to health care providers in the use of the form and required notifications. Specifies that providers using these forms and notifications are presumed to be in compliance with this bill. Permits CDPH to enter into a contract with organizations with expertise in long-term care medicine and geriatrics to develop the forms.

15) Specifies that SNFs and ICFs are not required to comply with this bill until the informed consent form is available as developed by CDPH in conjunction with the California Association of Long Term Care Medicine or other clinical organizations as determined by CDPH. Requires CDPH to have a final informed consent form available to SNFs by July 1, 2023.

16) Adds requirements to the Skilled Nursing and Intermediate Care Facility Patient's Bill of Rights related to the right to receive information material to a decision about whether to accept or refuse a proposed treatment, and related to the right to be free from psychotherapeutic drugs.

Comments

1) *Author's statement.* According to the author, nursing homes have increasingly turned to psychotherapeutic drugs to sedate and control residents, especially those who display confused or agitated behaviors caused by dementia. While these drugs are sometimes appropriately prescribed to treat mental health conditions, many of the psychotherapeutic drugs being used in nursing homes, particularly antipsychotic drugs designed to treat serious psychiatric disorders, are dangerous and used without medical justification. This bill addresses these concerns by codifying existing regulations that establish a nursing home resident's right to informed consent concerning the use of psychoactive drugs, strengthening requirements for informed consent verification, and clarifying that CDPH shall inspect for compliance with informed consent requirements. This bill will not create any new costs as physicians are already required to obtain informed consent, nursing facilities are already required to verify consent, and CDPH is already required and funded to inspect for compliance with these requirements. This bill will help ensure that these existing duties are carried out in an appropriate manner.

2) *Current informed consent requirements at SNFs and ICFs.* Under existing regulations for both SNFs and ICFs, there are a number of requirements governing informed consent, including specific requirements governing the administration of a psychotherapeutic drug or physical restraint. First, the

regulations state that it is the responsibility of the attending physician to determine what information a reasonable person in the patient's condition and circumstances would consider material to a decision to accept or refuse a proposed treatment or procedure, and that the disclosure of the material information and obtaining informed consent is the responsibility of the licensed healthcare practitioner, acting within their scope of practice, orders the treatment for which informed consent is required. For the administration of a psychotherapeutic drug or a physical restraint, the material information required to be disclosed in order for the patient or the patient's representative to provide informed consent includes the following:

a) The reason for the treatment and the seriousness of the patient's illness;

b) The nature of the procedures to be used in the proposed treatment, including their probable frequency and duration;

c) The probable degree and duration (temporary or permanent) of improvement or remission, expected with or without such treatment;

d) The nature, degree, duration and probability of the side effects and significant risks, commonly known by the health professions;

e) The reasonable alternative treatment and risks, and why the health professional is recommending this particular treatment; and,

f) That the patient has the right to accept or refuse the proposed treatment, and has the right to revoke his or her consent for any reason at any time.

3) *Psychotherapeutics, antipsychotics, and black box warning on the use of antipsychotics in the elderly.* This bill imposes enhanced informed consent procedures when a proposed treatment involves "psychotherapeutic drugs," which is defined to mean a drug to control behavior or to treat thought disorder processes, excluding antidepressants. Psychotherapeutic drug is a general term that can encompass a number of medications that affect brain chemistry. It can include antidepressants (which are specifically excluded from this bill), anti-anxiety medications such as benzodiazepines, stimulants such as medication to treat attention-deficit/hyperactivity disorder, and antipsychotic medicines, which are used to manage psychosis. Antipsychotic drugs are used to treat conditions such as schizophrenia and bipolar disorder. There are older, first generation antipsychotics, also called "typical" antipsychotics, which include chlorpromazine and haloperidol, and newer "atypical" antipsychotics such as risperidone, olanzapine, and quetiapine. Going back to 2003, the FDA began

warning about increased risk of "cerebrovascular adverse events including stroke" in dementia patients treated with the atypical antipsychotic drug risperidone. Following a meta-analysis, the FDA issued a black-box warning citing an increased risk of mortality for patients receiving atypical antipsychotics versus placebo, which was applied to all atypical antipsychotics as a class. In 2008, the FDA updated this black box warning to apply to conventional first generation, or typical, antipsychotics as well. The warning states that conventional or atypical antipsychotic drugs are not FDA-approved for the treatment of dementia-related psychosis. The warning states that use of conventional or atypical antipsychotic drugs in elderly patients with dementia-related psychosis is associated with an increased risk of death, and that prescribers who institute antipsychotic drug use in the regimen of an elderly patient with dementia-related psychosis should discuss the increased risk of mortality with the patient, caregivers, and family members. Since there is no FDA-approved medication for the treatment of dementia-related psychosis, other management options should be considered by health care providers.

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

According to the Senate Appropriations Committee, CDPH estimates one-time costs over several years, of $605,000 (State Health Facilities Citation Penalties Account), for staffing to develop a form and provide training to health care providers.

SUPPORT: (Verified 8/22/22)

California Advocates for Nursing Home Reform (source)
A Voice for Choice Advocacy
AARP
California Alliance for Retired Americans
California Continuing Care Residents Association
California Freedom Keepers
California Health Coalition Advocacy
California Office of the State Long-Term Care Ombudsman Program
Consumer Attorneys of California
Educate. Advocate.
Gray Panthers of San Francisco
Justice in Aging
Long Term Care Ombudsman Program for Humboldt/Del Norte Counties
Save our Seniors Network

OPPOSITION: (Verified 8/22/22)

None received

ARGUMENTS IN SUPPORT: This bill is sponsored by the California Advocates for Nursing Home Reform (CANHR), which states that for decades, regulations that ensure the rights of nursing home residents to give informed consent before being administered psychotropic drugs have become less meaningful as enforcement and compliance have diminished. Today, overdrugging is once again at crisis levels for nursing home residents, and refreshing and codifying informed consent protections for residents would ameliorate this problem. According to CANHR, following a number of studies showing severe side effects, including death, the FDA issued public health advisories that the treatment of dementia with antipsychotic medications was contra-indicated. Antipsychotics are associated with increased stroke, heart attack, pneumonia, extrapyramidal side effects and a host of other serious conditions. According to CANHR, the FDA now requires that all antipsychotics be accompanies by a black box warning label, cautioning the user that the drugs nearly double the risk of death for elderly patients with dementia.

ASSEMBLY FLOOR: 57-0, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Megan Dahle, Daly, Mike Fong, Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Bigelow, Chen, Choi, Cunningham, Davies, Flora, Gallagher, Gray, Kiley, Lackey, Mathis, Mayes, Nguyen, O'Donnell, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron

Prepared by: Vincent D. Marchand / HEALTH / (916) 651-4111
8/26/22 15:36:17

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

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THIRD READING

Bill No: AB 1816
Author: Bryan (D) and Kalra (D), et al.
Introduced: 2/7/22
Vote: 21

SENATE HOUSING COMMITTEE: 9-0, 6/13/22
AYES: Wiener, Bates, Caballero, Cortese, McGuire, Ochoa Bogh, Skinner, Umberg, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 58-17, 5/26/22 - See last page for vote

SUBJECT: Reentry Housing and Workforce Development Program

SOURCE: Corporation for Supportive Housing
Housing California
Los Angeles Regional Reentry Partnership
Western Center on Law & Poverty

DIGEST: This bill creates the Reentry Housing and Workforce Development Program (Program) under HCD which helps recently incarcerated people exit homelessness and remain stably housed.

ANALYSIS:

Existing law:

1) Requires all housing programs in California to comply with "Housing First" principles.

2) Establishes the Long Term Offender Reentry Recovery Program, Specialized Treatment for Optimized Programming, Integrated Services for Mentally Ill

Parolees, and Parolee Service Centers under the California Department of Corrections and Rehabilitation (CDCR).

3) Establishes the Adult Reentry Grant Program under the Board of State and Community Corrections.

4) Establishes the Prison to Employment Grant Initiative under the Workforce Development Board.

This bill:

1) Establishes the Program to provide five-year renewable grants to counties to fund evidence-based housing, housing based services, and employment interventions to allow people with recent histories of incarceration to exit homelessness and remain stably housed.

2) Requires HCD, upon appropriation from the Legislature, to do all of the following to create the Program:

   a) Establish a process for referral of eligible participants to the program;

   b) Work with the CDCR to establish protocols to prevent discharges from prison into homelessness;

   c) Issue guidelines and a Notice of Funding Availability (NOFA) for five-year renewable grants;

   d) Establish scoring criteria, as specified.

3) Specifies, among other things, the following eligible activities for funding:

   a) Long-term rental assistance in permanent housing;

   b) Interim interventions;

   c) Operating subsidies in new and existing affordable or supportive housing units;

   d) Incentives to landlords, including, security deposits, holding fees, and incentives for landlords to accept rental assistance or operating subsidies;

e) Innovative or evidence-based services to assist participants in accessing permanent housing, including supportive housing, and to promote stability in housing;

f) In-reach services to assist eligible participants at least 90 days before release from prison, to include any of the other services in this subdivision;

g) Parole discharge planning;

h) Wraparound services, including linkage to Medi-Cal funded mental health treatment, substance use disorder treatment, and medical treatment, as medically necessary.

4) Specifies the following services must be provided to participants in their home or made as easily accessible as possible:

a) Case management services;

b) Parole discharge planning;

c) Linkage to other services including education and employment services;

d) Benefit entitlement application and appeal assistance;

e) Transportation assistance to obtain services and health care;

f) Assistance obtaining appropriate identification; and

g) Linkage to Medi-Cal funded mental health treatment, substance use disorder treatment, and medical treatment.

5) Provides that for participants identified prior to release from prison, an intake coordinator or case manager shall:

a) Receive all pre-release assessment and discharge plans;

b) Draft a plan for the participant's transition into affordable or supportive housing;

c) Engage the participant to actively participate in services upon release on a voluntary basis;

d) Assist in obtaining identification for the participant; and

e) Assist in applying for any benefits for which the participant is eligible.

6) Requires recipients and providers to adhere to the core components of Housing First.

7) Requires grant recipients to report specified data annually to HCD.

8) Requires HCD to design an evaluation and hire an independent evaluator to assess outcomes from the program.

Background

Background on Incarceration and Homelessness. According to a 2020 report by the Council of Criminal Justice and Behavioral Health, formerly incarcerated people are 10 times more likely to be homeless than the general public and 20 times if the individual has a mental illness. Seventy percent of people experiencing homelessness have a history of incarceration, according to a survey of the three most populous counties in the state. In addition, behaviors associated with homelessness are criminalized, and a criminal history serves as a barrier to housing and employment. Thus, people often cycle through homelessness and incarceration. This exacerbates health concerns; around 30% of inmates suffering from a mental health condition, and, during the first two weeks of reentry, drug use and risk of death increases 12-fold. Because of these issues facing formerly incarcerated people, supportive housing and employment programs can help people exit the cycle of prison and homelessness.

Comments

1) *Author's Statement.* "AB 1816 directs Department of Housing and Community Development to establish a Reentry Housing and Workforce Development program, working with community-based organizations and other relevant stakeholders. Using evidence-based housing and wraparound services, this program will bring comprehensive resources to bear to directly address the critical transition from incarceration back into the community and beyond, helping people find stable housing and jobs by providing permanent housing for this vulnerable population. This approach does not just improve community safety - it saves taxpayers money and helps address the state goals of reducing homelessness at the same time. It's the right idea, at the right time."

2) *Housing First.* This bill requires the program to practice Housing First, which the State adopted as policy in 2017. Housing first approaches homelessness by

providing permanent, affordable housing for families and individuals as quickly as possible, then providing supportive services to prevent their return to homelessness. This strategy is an evidence-based model that focuses on the idea that homeless individuals should be provided shelter and stability before underlying issues can be successfully addressed. Under the housing first approach, anyone experiencing homelessness should be connected to a permanent home as quickly as possible, and programs should remove barriers to accessing the housing, like requirements for sobriety or absence of criminal history. It is based on the "hierarchy of need:" people must access basic necessities—like a safe place to live and food to eat—before being able to achieve quality of life or pursue personal goals. Housing first values choice not only where to live, but whether to participate in services. This approach contrasts to the "housing readiness" model where people are required to address predetermined goals before obtaining housing. In other words, housing readiness means housing is "earned" and can also be taken away, thus returning to homelessness.

3) *Existing Programs.* There are a few programs that target this population for housing or employment. CDCR offers the Long Term Offender Reentry Recovery Program, Specialized Treatment for Optimized Programming, and Parolee Service Centers, among other to offer housing help or employment services, or both, for 180 days, with the possibility of an additional 185 days. The Board of State and Community Corrections administers the Adult Reentry Grant Program which offers rental assistance, warm handoff reentry services, and funds for rehabilitation of existing property and buildings that organizations can apply for. The Workforce Development Board administers the Prison to Employment Grant Initiative which tries to improve the process for reentering the labor force. In its 2021 interim report, the Workforce Development Board reported that the median wage in the 2nd quarter after exit was $7,175. However, this is for the 239 people who voluntarily revealed their wage. Better data will be in their final report. These programs indicate that providing housing and employment services can help reentry of prisoners into their communities. This bill proposes such a program.

   In particular, the State Auditor audited CDCR's Integrated Services for Mentally Ill Parolees Program (ISMIP) in 2020. The report notes that CDCR performed little oversight, paid housing invoices without verification, lacked data of program participation, among other issues. In light of this report, this program no longer has funding.

4) *Cost Savings.* According to the Legislative Analyst's Office, it costs over $100,000 annually to incarcerate and inmate. A report in 2009 that studied Los Angeles found that, for a typical homeless person, the public cost is around $34,700 ($47,900 today), compared to $20,400 ($27,500 today) for someone in supportive housing. There is a 19% decrease in cost for individuals with serious problems (jail histories with substance abuse issues and received minimal assistance in the form of temporary housing). This bill aims to prevent recidivism and homelessness among a particularly vulnerable population and, in return, be fiscally responsible.

5) *Budget.* This bill creates a program that would cost a significant amount of money. It is unlikely that this program will be funded in the budget this year. However, this bill can act as a framework for a program of this nature.

6) *HCD and CDCR.* The program proposed by this bill will be administered by HCD, but HCD must work with CDCR. Given that HCD has expertise in housing development and providing supportive services, and this program's main goal is to house and support people, while CDCR provides perspective in programming for this particular population.

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

According to the Senate Appropriations Committee:

- HCD estimates ongoing administrative costs of approximately $3.27 million annually for 17 PY of new staff to establish and implement the RHWD Program, including establishing a referral process with CDCR, developing program guidelines, issuing a notice of funding availability (NOFA), scoring and ranking applications, preparing agreements with grant recipients, providing technical assistance, disbursing grant funds, and conducting ongoing monitoring activities. HCD also estimates one-time costs of approximately $1 million for a consulting contract with an independent evaluator to assess program outcomes. (General Fund)

- CDCR indicates that workload and costs to collaborate on the establishment of a referral process for RHWD Program participants are unknown, but potentially significant. Depending on the number of program participants, costs for the design and implementation of the referral process, establishing protocols for preventing discharges from prison into homelessness, and making any necessary administrative and systems changes, could be in the low millions. (General Fund)

- CDCR also estimates ongoing costs of approximately $476,000 for 4.0 PY of new staff for parole agents to establish and administer a process to coordinate with service providers and to manage the provision of prerelease assessment and discharge plans to those providers. CDCR also notes there could be additional systems costs if it is determined that the release of prerelease assessments and discharge plans requires information technology solutions. (General Fund)

- Unknown, major cost pressures, at least in the tens of millions annually, to provide grant funding for the RHWD Program. Staff notes that the HCD and CDCR administrative costs noted above would only be incurred to the extent that funds are appropriated for the RHWD Program. (General Fund)

SUPPORT: (Verified 8/11/22)

Corporation for Supportive Housing (co-source)
Housing California (co-source)
Los Angeles Regional Reentry Partnership (co-source)
Western Center on Law & Poverty (co-source)
A New Way of Life Re-entry Project
Abundant Housing LA
ACLU California Action
Agee Global Solutions, LLC
Aids Healthcare Foundation
Alameda County Democratic Party
All Home
Alliance of Catholic Health Care
Asian Solidarity Collective
Bread for the World
Brilliant Corners
California Apartment Association
California Catholic Conference
California for Safety and Justice
California Housing Partnership Corporation
California Public Defenders Association
Californians United for a Responsible Budget
Center for Living and Learning
Chrysalis Center
City of Oakland
Community Health Improvement Partners
Congregations Organized for Prophetic Engagement

Corporation for Supportive Housing
County of San Diego
Courage California
Democratic Party of the San Fernando Valley
Disability Rights California
Downtown Women's Center
East Bay Housing Organizations
Ella Baker Center for Human Rights
Essie Justice Group
Family Reunification Equity & Empowerment
Fresno Barrios Unidos
Friends Committee on Legislation of California
HomeRise San Francisco
Hope Community Services
Hope of the Valley Rescue Mission
Housing and Economic Rights Advocates
Housing Now! CA
Initiate Justice
Inner City Law Center
Interfaith Solidarity Network
Kitchens for Good
LA Family Housing
Law Foundation of Silicon Valley
Legal Services for Prisoner with Children
Long Beach Gray Panthers
Los Angeles County
Los Angeles Homeless Services Authority
Mental Health Advocacy Services
Multi-Faith Action Coalition
National Association of Social Workers, California Chapter
National Housing Law Project
NextGen California
Orange County District Attorney's Office
Orange County United Way
People Assisting the Homeless
Pico California
Pillars of the Community
Public Advocates
Public Law Center
Re-entry Providers Association of California

Root and Rebound
Rubicon Programs
San Francisco Public Defender
Showing Up for Racial Justice San Diego
Showing Up for Racial Justice North County San Diego
Skid Row Housing Trust
Smart Justice California
Southern California Pre-apprenticeship Program
St. Joseph Center
Starting Over, Inc.
Team Justice
The Center for Common Concerns Dba Homebase
Think Dignity
Tides Advocacy
Uncommon Law
United Way Bay Area
United Way of Greater Los Angeles
United Ways of California
Uprise Theatre
We the People - San Diego
1 Individual

OPPOSITION: (Verified 8/11/22)

None received

ASSEMBLY FLOOR: 58-17, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel

NO VOTE RECORDED: Berman, Chen, O'Donnell

Prepared by: Andrew Dawson / HOUSING / (916) 651-4124
8/13/22 10:46:58

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

SENATE RULES COMMITTEE AB 1817
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1817
Author: Ting (D) and Cristina Garcia (D), et al.
Amended: 8/24/22 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-1, 6/29/22
AYES: Allen, McGuire, Skinner, Stern, Wieckowski
NOES: Bates
NO VOTE RECORDED: Dahle

ASSEMBLY FLOOR: 52-2, 5/23/22 - See last page for vote

SUBJECT: Product safety: textile articles: perfluoroalkyl and polyfluoroalkyl substances (PFAS)

SOURCE: Breast Cancer Prevention Partners
Clean Water Action
Natural Resources Defense Council

DIGEST: This bill prohibits, beginning January 1, 2025, any person from manufacturing, distributing, selling, or offering for sale any textile articles that contain intentionally added per- and polyfluoroalkyl substances (PFAS), except for textiles used for personal protective equipment or certain other regulated products. This bill requires manufacturers to use the least toxic alternative when complying with this prohibition and to provide distributers with certification of compliance.

Senate Floor Amendments of 8/24/22 remove a target threshold for the reduction of PFAS in textiles to 10 parts per million by 2029, add exemptions to the PFAS prohibition for aircraft, off-highway vehicles, and architectural fabrics, delay implementation of the prohibition for severe weather textiles to 2029, and clarify some definitions.

ANALYSIS:

Existing law:

1) Requires, under the Safer Consumer Products statutes the Department of Toxic Substances Control (DTSC) to adopt regulations to establish a process to identify and prioritize chemicals or chemical ingredients in consumer products that may be considered chemicals of concern, as specified. (Health and Safety Code (HSC) § 25252)

2) Requires DTSC to adopt regulations to establish a process to evaluate chemicals of concern in consumer products, and their potential alternatives, to determine how to best limit exposure or to reduce the level of hazard posed by a chemical of concern. (HSC § 25253 (a))

3) Specifies, but does not limit, regulatory responses that DTSC can take following the completion of an alternatives analysis, ranging from no action, to a prohibition of the chemical in the product. (HSC § 25253)

4) Requires, under the California Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65), the Governor to publish a list of chemicals known to cause cancer or reproductive toxicity and to annually revise the list. The Office of Environmental Health Hazard Assessment (OEHHA) has listed perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS), which are members of the per- and polyfluoroalkyl substances (PFAS) class, as chemicals known to the state to cause developmental toxicity. (HSC § 25249.8)

5) Requires, commencing January 1, 2022, a person that sells firefighter personal protective equipment to provide a written notice to the purchaser if the firefighter personal protective equipment contains intentionally added PFAS chemicals. (HSC § 13029)

6) Prohibits, commencing January 1, 2022, a manufacturer of class B firefighting foam from manufacturing, or knowingly selling, offering for sale, distributing for sale, or distributing for use, and a person from using, class B firefighting foam containing intentionally added PFAS chemicals. (HSC § 13061)

7) Prohibits, on and after July 1, 2023, a person, including, but not limited to, a manufacturer, from selling or distributing in commerce in this state any new, not previously owned, juvenile product that contains regulated PFAS chemicals. (HSC § 108946)

8) Prohibits, commencing on January 1, 2023, a person from distributing, selling, or offering for sale in the state any food packaging that contains regulated PFAS. (HSC § 109000)

9) Authorizes the State Water Resources Control Board (State Water Board) to order a public water system to monitor for PFAS, requires community water systems to report detections, and where a detected level of these substances exceeds the response level, to take a water source out of use or provide a prescribed public notification. (HSC §116378)

This bill:

1) Defines for the purpose of this bill:

   a) "Apparel" as clothing items intended for regular wear or formal occasions or use in outdoor activities, excluding personal protective equipment or clothing items for exclusive use by the United States military;

   b) "Outdoor apparel" as clothing items intended primarily for outdoor activities including hiking, camping, skiing, climbing, bicycling, and fishing;

   c) "Outdoor apparel for severe wet conditions" as outdoor apparel that are extreme and extended use products that provide protection against wet conditions and that are not marketed for general consumer use;

   d) "Personal protective equipment" as equipment worn to minimize exposure to hazards that cause serious workplace injuries and illnesses that may result from contact with chemical, radiological, physical, biological, electrical, mechanical, or other workplace or professional hazards;

   e) "Perfluoroalkyl and polyfluoroalkyl substances" (PFAS) as fluorinated organic chemicals containing at least one fully fluorinated carbon atom;

   f) "Regulated PFAS" as PFAS that a manufacturer has intentionally added to a product or that are intentional breakdown products of a product, or the presence of PFAS in a product or product component at or above the following thresholds as measured in total organic fluorine:

      i) Commencing January 1, 2025, 100 parts per million (ppm); and

      ii) Commencing January 1, 2027, 50 ppm.

   g) "Textile" as any item made in whole or part from a natural, manmade, or synthetic fiber, yarn or fabric including leather, cotton, silk, jute, hemp,

wool, viscose, nylon, or polyester. “Textile” does not include single-use paper hygiene products, such as, toilet paper, paper towels, tissues, or single-use absorbent hygiene products; and

h) “Textile articles” as textile goods of a type and ordinarily used in household and businesses including apparel, accessories, handbags, backpacks, draperies, shower curtains, furnishing, upholstery, beddings, towels, napkins, and tablecloths. “Textile articles” does not include:

i) Carpets and rugs;

ii) Treatments containing PFAS for use on converted textiles or leathers;

iii) Vehicles or their component parts, including off-highway motor vehicles;

iv) Vessels or their component parts, including boat covers;

v) Filtration media and filter products used in industrial applications;

vi) Textile articles used in or for laboratory analysis and testing;

vii) An aircraft or its component parts;

viii) Stadium shades or other architectural fabric structures – fabric structures that are intrinsic to a building’s design or construction.

2) Prohibits the manufacturing, distribution, or selling in the state any new, not previously used, textile articles that contain regulated PFAS after January 1, 2025.

3) Exempts outdoor apparel for severe wet conditions from this prohibition until January 1, 2028.

4) Requires, commencing January 1, 2025, new, not previously used, outdoor apparel for severe wet conditions that contain regulated PGAS must be sold with a legible and easily discernable disclosure with the statement “Made with PFAS chemicals.”

5) Requires manufacturers to use the least toxic alternative, including alternative design, when removing regulated PFAS in textile articles to comply with this prohibition.

6) Requires manufacturers of textile articles to provide retailers and distributers a signed certificate of compliance stating that a textile article is in compliance with this prohibition.

7) Specifies that a distributer or retailer shall not be in violation of this prohibition if they relied in good faith on the provided certificate.

Background

1) *Perfluoroalkyl and polyfluoroalkyl substances (PFAS).* PFAS are a class of man-made chemical compounds that contain multiple fluorine atoms bonded to a single carbon atom. These carbon-fluorine bonds are extremely stable and chemically unreactive, which makes PFAS very useful in creating long-lasting and resistant products. As such PFAS have been produced and used in consumer products since the 1940s, often as surface coatings to repel water, dirt, oil, and grease. They have been used in food packaging, stain- and water-repellent fabrics, nonstick products such as Teflon, and in fire-fighting foams.

   Unfortunately, PFAS' stability also means that these compounds are resistant to being metabolized by organisms or otherwise degraded and so have slowly built up in the environment. Their chemical properties also make many PFAS highly mobile – able to travel long distances, move through soil, seep into groundwater, or be carried through the air far from their point of production or use. These factors combined with their widespread use have made PFAS so ubiquitous that almost every person on Earth has been exposed to PFAS and scientists have found these toxins in the blood of nearly all people tested.

2) *PFAS, don't you know that you're toxic?* Several PFAS have been shown to bioaccumulate significantly in animals or plants and emerging evidence points to their phytotoxicity, aquatic toxicity, and terrestrial ecotoxicity. The Agency for Toxic Substances and Disease Registry (ATSDR) and the US EPA developed the toxicologic profile of 14 PFAS chemicals. Based on a number of factors, including the consistency of findings across studies, the available epidemiology studies suggest associations between perfluoroalkyl exposure and several adverse health effects, including liver damage, increased risk of thyroid disease, decreased antibody response to vaccines, increased risk of asthma, risk of decreased fertility, and small decreases in birth weight.

3) *PFAS are a diverse class of chemical compounds*. Because PFAS have been so industrially useful, many different types of PFAS have been created. As of September 2020, more than 9,000 PFAS chemicals were included in the US EPA's Master List of PFAS Substances. Each one has variations in their

chemical properties, but all share a resistance to chemical reactivity and to environmental and biological degradation. Perfluorooctanesulfonic acid (PFOS), used to create Teflon, and perfluorooctanoic acid (PFOA), previously used in Scotchgarde, have been the most extensively studied.

Because of extensive research demonstrating the health risks of these PFAS have been phased out of production and replaced with new PFAS touted as safer alternatives based on the idea that they linger for a shorter time in human bodies. Unfortunately, further research has shown that many of these alternatives are associated with similar adverse health effects as the original PFAS and can travel even more easily in the environment.

4) *To meaningfully regulate PFAS they must be treated as a chemical class*. Performing a complete assessment of the health impacts of all 9,000 PFAS is impractical. As such, DTSC has adopted a rationale for regulating PFAS chemicals as a class, concluding, "It is both ineffective and impractical to regulate this complex class of chemicals with a piecemeal approach." This rationale was presented in the February, 2021, Environmental Health Perspectives article, "Regulating PFAS as a Chemical Class under the California Safer Consumer Products Program." The authors of the article state, "The widespread use, large number, and diverse chemical structures of PFAS pose challenges to any sufficiently protective regulation, emissions reduction, and remediation at contaminated sites. Regulating only a subset of PFAS has led to their replacement with other members of the class with similar hazards, that is, regrettable substitutions… Regulating PFAS as a class is thus logical, necessary, and forward-thinking."

5) *PFAS make textiles harder, better, faster, stronger*. A study commissioned by the European Commission Directorate-General for Environment found that PFAS have been used for a wide range of functional applications within textiles, upholstery, leather, apparel, and carpets in both the consumer and industrial segments. The study reports that water, oil, and dirt repellence were the primary functions for use of PFAS in textiles. Thermal resistance and 'breathability' were other uses of PFAS identified in certain types of clothing applications. According to industry representatives, PFAS are essential to the durability and functioning of many textiles designed to withstand harsh conditions or extended use, including personal protective equipment, some medical equipment, and extreme weather gear.

6) *Textiles are a major source of PFAS pollution.* According to the US EPA 2009 perfluorinated chemicals action plan, globally, coatings for textiles represent

50% of the total use of fluorotelomers, a broad class of PFAS that covers most PFAS used at large scale in industry. The US EPA is currently in the process of evaluating the PFAS content of wastewater from major industry sectors, including the textile industry.

DTSC states, "Most waste or end-of-life converted textiles or leathers in California are disposed of in landfills, where they become sources of PFASs to the environment via leachates and gaseous emissions. Wastewater treatment plants that collect landfill leachates, surface runoff, and residential and commercial wastewater do not effectively remove PFASs. As a result, when wastewater effluent is discharged into surface waters, PFASs are released into the environment, contaminating aquatic ecosystems and drinking water sources. Sewage sludge also contains PFASs, thus the application of biosolids on soil can contaminate terrestrial ecosystems, drinking water, and human food supplies. Carpets, rugs, upholstery, clothing, shoes, and other consumer products to which treatments containing PFASs have been applied become major sources of exposure for infants and children via direct contact and incidental indoor dust ingestion."

7) *Alternatives to PFAS in textiles*. According to the Washington State Department of Ecology, there are a number of ways to meet the function of stain, oil, and water resistance in textiles and furnishings, including by using PFAS chemistries, non-PFAS "drop in" alternatives, or fibers that are inherently stain resistant. Non-PFAS "drop in" solutions include siloxane polymers, polyurethanes, sulfonation, and silicate clay-based repellent. Inherently stain resistant fibers include wool, polypropylene, polyethylene terephthalate, and polytrimethylene terephthalate. These alternatives require further study to ensure that there are no toxic impacts, and to consider their other environmental impacts, but they should not share the same exposure hazards as PFAS chemicals.

The Danish Environmental Protection Agency published a report in 2015 on alternative to PFAS that can be used to treat textiles to achieve similar effects. They list paraffin, stearic acid-melamine, silicone, dendrimer, and nano-material based repellant chemistries as currently used viable alternatives, though they do note these treatments only provide water resistance and not the oil and stain-resistance properties of PFAS.

While safer, less environmentally toxic alternatives to PFAS exist for many functions in textiles, many will not perform as well in all circumstances. In phasing out PFAS to protect the environment, a reduction in the performance

of certain treated clothing will likely occur. As such this bill exempts critical classes of treated textiles where performance is essential to protecting human health in workplace, medical, and military settings.

Comments

According to the author, "Perfluoroalkyl and polyfluoroalkyl substances (PFAS) are a class of "forever" chemicals that are widely used, extremely persistent, and can lead to adverse health outcomes. While PFAS has been banned in a variety of consumer products, these chemicals are still utilized in textiles, including clothing, predominantly for stain and water repellency. The use of PFAS in textiles not only impacts the health of consumers, but contaminates our environment when PFAS-containing fabrics get washed. In California, water systems serving up to 16 million people have already been found to have PFAS contamination, and it is more prevalent in disadvantaged communities. California has already enacted a series of laws to protect consumers and the environment from the hazardous impacts of PFAS, including AB 1200, which I championed and was signed into law just last year, prohibiting the use of PFAS in paper-based food packaging. These laws were passed on the premise that prevention is the best cure, and eliminating PFAS in consumer products is the best way to reduce the adverse health impacts of these chemicals on California residents. AB 1817 would extend this same logic to the textile industry by banning the sale of textiles that contain PFAS by 2025. By forcing manufactures to use safer alternatives, AB 1817 ensures California consumers and the environment are protected the toxic impacts of these forever chemicals."

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

SUPPORT: (Verified 8/24/22)

Breast Cancer Prevention Partners (co-source)
Clean Water Action (co-source)
Natural Resources Defense Council (co-source)
Active San Gabriel Valley
Alliance of Nurses for Healthy Environments
American College of Obstetricians and Gynecologists District IX
Bay Area Pollution Prevention Group
Breast Cancer Action
Breast Cancer Over Time
Breathe Southern California
California Association of Sanitation Agencies
California Black Health Network

California Coastkeeper Alliance
California Municipal Utilities Association
California Product Stewardship Council
California Professional Firefighters
California Special Districts Association
CALPIRG
CBU Productions
Center for Biological Diversity
Center for Community Action & Environmental Justice
Center for Oceanic Awareness, Research, and Education
Center for Public Environmental Oversight
Central California Asthma Collaborative
City of Oceanside Water Utilities Department
City of Santa Rosa
Clean and Healthy New York
Clean Label Project
Clean Production Action
Community Water Center
Consumer Federation of California
East Bay Municipal Utility District
Educate. Advocate.
Emphysema Foundation of America
Environmental Health Trust
Environmental Working Group
Erin Brockovich Foundation
Facts: Families Advocating for Chemical & Toxins Safety
Fashion Revolution USA
Fibershed
Friends Committee on Legislation of California
Friends of the Earth
Goodwill Industries of San Francisco, San Mateo and Marin Counties
Green America
Green Science Policy Institute
Heal the Bay
Ikea
Integrated Resource Management
Leadership Counsel for Justice and Accountability
Los Angeles County Sanitation Districts
Made Safe
Metropolitan Water District of Southern California

National Association of Environmental Medicine
National Stewardship Action Council
Northern California Recycling Association
Orange County Water District
Patagonia Inc.
Physicians for Social Responsibility - Los Angeles
Plastic Oceans International
Plastic Pollution Coalition
Safer States
San Francisco Bay Physicians for Social Responsibility
San Francisco Baykeeper
Santa Clara Valley Water District
Save Our Shores
Save the Albatross Coalition
Seventh Generation Advisors
Sierra Club California
The 5 Gyres Institute
The Keep a Breast Foundation
Upstream
West County Wastewater
Wishtoyo Chumash Foundation
Women's Voices for the Earth
Worksafe
Zero Waste Sonoma
Zero Waste USA

OPPOSITION: (Verified 8/24/22)

American Chemistry Council
American Forest & Paper Association
California Manufacturers & Technology Association
California Retailers Association
Juvenile Products Manufacturers Association
Kokatat Inc.
National Council of Textile Organizations
Outdoor Industry Association
The Toy Association

ARGUMENTS IN SUPPORT: According to the sponsors of the bill, "PFAS are a class of approximately 9,000 man-made chemicals used for a wide range of purposes, including in clothes and textiles. PFAS are called "forever chemicals"

because they are extremely resistant to breaking down or break down into other toxic PFAS. Consequently, they persist in the environment indefinitely and bioaccumulate in our bodies and other living organisms. They also move around easily through the environment, making them difficult to control. Virtually all Americans have PFAS in their bodies. PFAS have been linked to severe health problems, including but not limited to breast and other cancers, hormone disruption, kidney and liver damage, thyroid disease, harm to developing infants and children, and immune system disruption. Indeed, health organizations such as the International Federation of Gynecology and Obstetrics, IFIGO, have called for phasing out all unnecessary uses of PFAS…

"Recognizing the health and environmental concerns about PFAS in textiles, many leading companies, like Levi's, Gap, H&M, Puma, Keen, Osprey, Patagonia, Jack Wolfskin, Ikea, and Zara, have either eliminated or made commitments to eliminate PFAS from their products. It's time to require the rest of the industry to phase out this unnecessary use of PFAS, just as California has required the elimination of PFAS in paper-based food packaging, children's products, and fire-fighting foam, to protect our health, drinking water, and environment."

ARGUMENTS IN OPPOSITION: According to the industry coalition opposed to the bill, "Our industries support the responsible production, use and management of fluorinated substances, including regulatory requirements that are protective of human health and the environment. PFAS have varying physical and chemical properties and their environmental and health profiles are not all the same. It is important to consider this point when seeking to regulate a diverse set of products and articles.

"Given global supply chain constraints that have hit apparel retailers particularly hard, product availability for replacements is not assured and is likely to further exacerbate the economic impact on this sector. Additionally, a rigid compliance deadline without appropriate sell through provisions could have unintended consequences both from an economic and environmental perspective. Replacement of durable products, proven to provide long service life (years) with lower performing, much shorter lifetime (months) products will require consumers to replace those products more frequently, significantly increasing aggregated greenhouse gas (GHG) emissions output during production of the replacements. Unsold items may be disposed of in landfills or shipped to neighboring states for sale, incurring additional solid waste management, transportation and re-packaging material GHG impacts to the environment."

ASSEMBLY FLOOR: 52-2, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Seyarto
NO VOTE RECORDED: Berman, Mia Bonta, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Mayes, Nguyen, O'Donnell, Patterson, Quirk-Silva, Blanca Rubio, Smith, Voepel, Waldron

Prepared by: Jacob O'Connor / E.Q. / (916) 651-4108
8/26/22 15:36:18

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

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THIRD READING

Bill No: AB 1820
Author: Arambula (D), et al.
Amended: 8/22/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 6/8/22
AYES: Cortese, Ochoa Bogh, Durazo, Laird, Newman

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 6/28/22
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 76-0, 5/25/22 - See last page for vote

SUBJECT: Division of Labor Standards Enforcement: Labor Trafficking Unit

SOURCE: Sunita Jain Anti-Trafficking Policy Initiative
Western Center on Law & Poverty

DIGEST: This bill establishes the Labor Trafficking Unit within the Department of Occupational Safety and Health to investigate and prosecute complaints alleging labor trafficking, and report specified data.

Senate Floor Amendments of 8/22/22 clarify that the new Labor Trafficking Unit created by the bill will coordinate with the California Civil Rights Department. These amendments reflect the renaming of the former Department of Fair Employment and Housing (DFEH).

ANALYSIS:

Existing law:

1) Establishes the Division of Occupational Safety and Health (Cal/OSHA) within the Department of Industrial Relations (DIR), and gives Cal/OSHA the power,

jurisdiction, and supervision over every place of employment in this state which is necessary to enforce and administer all laws requiring places of employment to be safe, and requiring the protection of the life, safety, and health of every employee.

2) Establishes the Labor Enforcement Task Force (LETF) under the direction of DIR to enforce activities regarding labor, tax, and licensing law violators operating in the underground economy.

3) Establishes the Joint Enforcement Strike Force on the Underground Economy under the direction of the Employment Development Department to combat the underground economy by combining resources and sharing information among the state agencies that enforce tax, labor, and licensing laws.

4) Establishes the Tax Recovery in the Underground Economy Criminal Enforcement Program in the Department of Justice (DOJ) to combat underground economic activities through a multiagency collaboration and recover state revenue lost to the underground economy.

5) Provides that any person who deprives or violates the personal liberty of another with the intent to obtain forced labor or services is guilty of the crime of human trafficking. (Penal Code § 236.1)

6) Requires specified businesses and establishments, including hotels, motels, and bed and breakfast inns, to post notices in a conspicuous place near the public entrance of the establishment or in another conspicuous location in clear view of the public and employees where similar notices are customarily posted. (Civil Code §52.6)

7) Requires the notices to include specific language regarding telephone numbers to contact if one is aware of or is a victim of human trafficking. This includes the National Human Trafficking Resource Center and the California Coalition to Abolish Slavery and Trafficking. (Civil Code §52.6)

8) Requires DOJ to create a model notice that can be used by businesses and establishments to meet the posting requirement. (Civil Code §52.6.)

9) Requires hotels and motels, but not bed and breakfast inns, to provide human trafficking awareness training and education to employees who interact with the public, as defined and specified. (Gov. Code §12950.3)

This bill:

1) Establishes the Labor Trafficking Unit (LTU) within Cal/OSHA to receive, investigate, and prosecute complaints alleging labor trafficking and take steps to prevent labor trafficking.

    a) Requires the LTU to coordinate with LETF, the Bureau of Investigation within the DOJ, and the Civil Rights Department to combat labor trafficking. The unit may also coordinate with local law enforcement or district attorney's offices when investigating criminal actions relating to labor trafficking.
    b) Requires the LTU to follow protocols to ensure that survivors of labor trafficking are not victimized by the process of prosecuting traffickers and are informed of the services available to them. Allows the LTU to coordinate with both state and local agencies to connect survivors with services available.

2) Requires the LTU to submit a report to the Legislature that includes the following information pertaining to the prior calendar year:

    a) The number of complaints or referrals received.
    b) The number and type of complains or referrals received.
    c) The number of complaints referred to DOJ.
    d) The number of complaints referred to the Civil Rights Department.
    e) The number of referrals and coordinations with local law enforcement agencies and district attorney's offices.
    f) The outcome of each complaint.
    g) Sunsets this reporting requirement on January 1, 2035.

Comments

Need for this bill? The United States remains one of the widely regarded destination countries for human trafficking; federal reports estimate that 14,500 to 17,500 victims are trafficked into the US annually. This does not include trafficking victims within the United States itself and, due to the clandestine nature of the underground economy, is almost certainly an underestimate. Human trafficking can take a number of forms, but generally involves compelling or coercing a person to provide labor or services, or to engage in commercial sex acts. As highlighted by the Attorney General's website on human trafficking, "the

coercion can be subtle or overt, physical or psychological, and may involve the use of violence, threats, lies, or debt bondage."[1]

In California specifically, there were 1,656 cases of human trafficking reported in 2018. Of these cases, 1,226 cases were sex trafficking cases, 151 cases were labor trafficking and 110 involved both labor and sex trafficking.

There is obviously a notable amount of overlap between labor and sex trafficking, but there is a slight distinction. Labor trafficking involves the recruitment, harboring, or transportation of a person for labor services, through the use of force, fraud, or coercion. It is, in many ways, modern day slavery. Labor trafficking also takes many forms, including domestic servitude, restaurant work, janitorial work, factory work, migrant agricultural work, and construction. It is often distinguished by unsanitary and overcrowded living and working conditions, nominal or no pay for work that is done, debt bondage, and document servitude.

Though existing law provides for training, workplace postings advising employees of their rights, and harsh penalties for human trafficking, the incentives to coerce people into servitude still exist. The creation of a specific unit that can coordinate between the multiple agencies tasked with finding and protecting victims could be effective; furthermore, the reporting requirements will bring valuable and specific data that can direct resources into sectors that experience higher numbers of these heinous crimes.

Triple Referral. This bill was triple-referred and was heard in the Senate Public Safety Committee. Due to ongoing COVID-19 concerns affecting normal hearing scheduling, there was not enough time for AB 1820 to be heard in the Senate Judiciary Committee. Instead, the following paragraph from the Senate Judiciary Committee has been included, to ensure that their policy opinions are reflected:

"This bill does not appear to raise any issues of concern with respect to policy within the jurisdiction of the Senate Judiciary Committee. The proposed Labor Trafficking Unit should facilitate more effective enforcement of labor laws in California, which is to the benefit of both impacted workers and all employers whose competitive position in the marketplace is undermined by these abhorrent labor practices."

[1] "What is Human Trafficking?" Office of the Attorney General of California, **https://oag.ca.gov/human-trafficking/what-is**.

Related/Prior Legislation

SB 970 (Atkins, Chapter 842, Statutes of 2018) required that hotels and motels provide human trafficking education to employees who interact with the public, as defined**.**

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

According to the Senate Appropriations Committee:

- DIR indicates that it would incur first-year costs of $4.3 million, and $4 million annually thereafter, to implement the provisions of the bill (Labor Enforcement and Compliance Fund). All of these amounts reflect additional workload to DLSE to (1) receive and investigate complaints alleging labor trafficking, and then (2) refer them for criminal prosecution by the DOJ or for civil action by DFEH.

- The bill would result in initial costs of $2.6 million and ongoing annual costs of approximately $3.9 million to DOJ (General Fund). The Criminal Law Division's Special Prosecutions Section anticipates increased litigation workload, necessitating seven new staff. The Division of Law Enforcement's Bureau of Investigation anticipates increased investigative workload in coordination with the other LTU partners, requiring an additional nine positions, initial funding for software and hardware systems, and ongoing funding for travel expenses.

- DFEH anticipates General Fund costs of $3.2 million annually, beginning in 2023-24 as a result of the bill. These costs would result from LTU referring matters to DFEH's Civil Rights Division (CRD) for investigation, mediation, and potential prosecution. The Department assumes that 250 matters could be referred to CRD per year, which would need additional staff to accommodate the increased workload. DFEH indicates that costs to coordinate with LTU would be minor and absorbable.

SUPPORT: (Verified 8/23/22)

Sunita Jain Anti-Trafficking Policy Initiative (co-source)
Western Center on Law & Poverty (co-source)
American Federation of State, County and Municipal Employees, AFL-CIO
California Catholic Conference
California Rural Legal Assistance Foundation, Inc.
Little Hoover Commission

Los Angeles County District Attorney's Office
National Association of Social Workers, California Chapter
Precision Nails

OPPOSITION: (Verified 8/23/22)

None received

ARGUMENTS IN SUPPORT: The Western Center on Law & Poverty writes in support:

"Human trafficking is the world's fastest-growing criminal enterprise and is an estimated to be a $150 billion annual global industry. On a global scale, the International Labour Organization estimates that of the 20.9 million forced laborers worldwide, 68 percent are victims of forced labor exploitation. Unfortunately, COVID - 19 has worsened the current status quo. A State Department report underscored that COVID 19 increased the number of people at risk of human trafficking and highlighted "monumental" challenges laid bare by the pandemic, which "may be long lasting, requiring sustained collaboration among governments, civil society organizations, private sector leaders, survivor leaders, and other anti-trafficking actors to adjust and respond aptly to overcome these challenges.

"California has the highest number of human trafficking cases in the nation reported to the National Human Trafficking Hotline. Despite its prevalence, human trafficking is a "hidden crime." Many victims do not self-identify or self-report, and many do not even recognize they are being trafficked. A report published by the Little Hoover Commission concluded that California's efforts to prevent labor trafficking are fragmented and a major issue is a lack of a directive to current state agencies to lead efforts to prevent labor trafficking and coordinate with other agencies such as California Department of Justice (DOJ) and Department of Fair Employment and Housing (DFEH) to stop trafficking before it starts.

"AB 1820 (Arambula) - the California Labor Trafficking Prevention Act - seeks to protect California's most vulnerable and exploited workers from being taken advantage of by unscrupulous individuals and businesses who force them to work under duress with little to no pay. This bill will provide the Department of Industrial Relations (DIR) with statutory authority to investigate and prosecute claims of human labor trafficking and create a Labor Trafficking Unit to take necessary steps to properly prevent, investigate, and coordinate state efforts to put a stop to the abuses of workers."

ASSEMBLY FLOOR: 76-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Jake Ferrera / L., P.E. & R. / (916) 651-1556
8/23/22 14:43:42

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

SENATE RULES COMMITTEE AB 1823
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THIRD READING

Bill No: AB 1823
Author: Bryan (D)
Amended: 8/24/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 10-0, 6/29/22
AYES: Pan, Melendez, Eggman, Grove, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Gonzalez

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/8/22
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

ASSEMBLY FLOOR: 70-0, 5/23/22 - See last page for vote

SUBJECT: Student health insurance

SOURCE: California Department of Insurance

DIGEST: This bill defines student health insurance as individual health insurance and specifies federal Affordable Care Act (ACA) requirements that apply to student health insurance, such as coverage of essential health benefits, rating factors consistent with existing law, the annual limit on maximum out-of-pocket expenses as specified, and the prohibition against annual and lifetime limits. This bill includes legislative intent to encourage self-funded student health coverage offered by the University of California Student Health Insurance Plan and the University of California Voluntary Dependent Plan to maintain or exceed coverage standards of the ACA and to comply with provisions of this bill. This bill requires all other student health coverage offered by an institution of higher education in California to comply with this bill.

Senate Floor Amendments of 8/24/22 refine the intent language regarding the University of California and indicate that all other student health coverage offered by an institution of higher education in California must comply with this bill; delay the implementation date to 2024; make it clear that any reference to insured in a

blanket disability insurance policy that meets the definition of student health insurance coverage refers to the individual students and dependents insured under those policies; make it clear for specified sections of the law, reference to policyholder refers to the individual students; clarify the large group rate review requirements that student health insurance must comply with; require the rating period to be the policy year and not vary during the rating period; and, exempt student health insurance coverage from specified provisions of California health insurance law.

ANALYSIS:

Existing law:

1) Establishes the California Department of Insurance (CDI) to regulate health insurance, and other forms of insurance. [INS §106, et seq.]

2) Permits as a type of blanket insurance providing benefits to students without necessarily any restriction as to activity, time, or place, or to teachers or employees while performing actions incident to special duties, such as at camps, at summer playgrounds, or during tours or excursions; and providing benefits to students, teachers, or employees, and spouses and dependents of students, teachers, and employees, for death or dismemberment resulting from accident, or for hospital, medical, surgical, drug, or nursing expenses resulting from accident or sickness. Blanket insurance is a form of insurance providing coverage for specified circumstances and insuring by description all or nearly all persons within a class of persons defined in a policy issued to a master policyholder, a college, school, or other institution of learning, a school district or districts or school jurisdictional unit, or to the head, principal, or governing board of an educational unit who or which shall be deemed the policyholder. [INS §10270.2(a)(2)]

3) Requires an individual or small group health insurance policy to include, at a minimum, coverage for essential health benefits, pursuant to the ACA, and describes the benefits and benchmark plan which comprise California's essential health benefits. [INS §10112.27]

4) Defines student health insurance, under federal regulations, as a type of individual health insurance coverage that is provided pursuant to a written agreement between an institution of higher education (as defined in the Higher Education Act of 1965) and a health insurance issuer, and provided to students enrolled in that institution of higher education and their dependents, that does not make health insurance coverage available other than in connection with

enrollment as a student (or as a dependent of a student) in the institution of higher education; does not condition eligibility for the health insurance coverage on any health status-related factor relating to a student (or a dependent of a student); and meets any additional requirement that may be imposed under State law. [45 CFR §147.145]

5) Exempts 4) above from ACA requirements on guaranteed availability and guaranteed renewability, levels of coverage, single risk pool. [45 CFR §147.145]

6) Establishes the federal Paul Wellstone and Pete Dominici Mental Health Parity and Addiction Act of 2008 (MHPAEA). [42 U.S.C. §300gg-26]

This bill:

1) Requires, for policy years beginning on or after January 1, 2024, a blanket disability insurance policy that meets the definition of student health insurance coverage to be considered individual health insurance coverage, as specified.

2) Defines "student health insurance coverage" as a blanket disability policy that covers hospital, medical, or surgical benefits, that is provided pursuant to a written agreement between an institution of higher education, as defined in the federal Higher Education Act of 1965, and a disability insurance issuer, and provided to students enrolled in that institution of higher education and their dependents, that meets all of the following conditions:

   a) Does not make coverage available other than in connection with enrollment as a student, or as a dependent of a student, in the institution of higher education;
   b) Does not condition eligibility for the insurance coverage on any health status-related factor relating to a student or a dependent of a student; and,
   c) Does not condition eligibility, an offer, issuance, a sale, or a renewal for the insurance coverage on any factor other than enrollment as a student or dependent of a student in the institution of higher education.

3) Requires, a blanket disability insurance policy that meets the definition of student health insurance coverage to comply with the provisions of Insurance Code that are applicable to nongrandfathered individual health insurance, including, but not limited to, essential health benefits requirements, rating factors consistent with existing law, the annual limit on maximum out-of-pocket expenses as specified, and the prohibition against annual and lifetime limits.

4) Exempts a disability insurance issuer that offers student health insurance coverage from being required to renew or continue in force coverage for individuals who are no longer students or dependents of students. However, requires the student health insurance coverage to be renewable with respect to all eligible students or dependents of students at the option of the student.

5) Exempts student health insurance coverage from the requirement to provide specific levels of coverage as required in existing law for insurers not participating in Covered California. However, requires the benefits provided by student health coverage to provide at least 60% actuarial value. Requires the issuer to specify in any plan materials summarizing the terms of the coverage the actuarial value and level of coverage, or the next lowest level of coverage, and how the coverage would otherwise satisfy requirements of existing law.

6) Specifies that student health insurance coverage is not subject to single-risk pool requirements in existing law. Permits a health insurance issuer that offers student health insurance coverage to establish one or more separate risk pools for an institution of higher education if the distinction between or among groups of students or dependents of students who form the risk pool is based on a bona fide school-related classification and not based on a health factor. However, requires student health insurance rates to reflect the claims experience of individuals who comprise the risk pool, and any adjustments to rates within a risk pool to be actuarially justified.

7) Exempts student health insurance coverage from nongrandfathered individual health insurance rate review, but requires it to be subject specified nongrandfathered large group market rate review requirements. Requires if CDI determines that a rate is unreasonable or not justified the insurer to notify the policyholder of this decision, including to a student certificate holder in addition to the policyholder.

8) Exempts student health insurance from specified sections of the Insurance Code related to open enrollment periods, coordination of benefits, large group MHPAEA requirements, open enrollment and dependent coverage for dependents under 26 years of age. However, requires individual and small group MHPAEA requires to apply, as well as other depending coverage requirements related to dependent under 26 years of age.

9) Requires the following notice to be provided in the student health insurance enrollment materials provided to a student or a dependent of a student in clear, conspicuous, 14-point bold type, and permits the notice to be provided on website of the institution:

California requires residents and their dependents to obtain, and maintain, health coverage or pay a penalty, unless they qualify for an exemption. Enrolling in student health insurance offered by the college or university you are attending is one way to meet this requirement.

You may be eligible to get free or low-cost health coverage through Medi-Cal regardless of immigration status. In addition, you may be eligible for free or low-cost health coverage through Covered California. Visit Covered California at www.coveredca.com to learn about health coverage options that are available for you and your dependents, and how you might qualify to get financial assistance with the cost of coverage.

If you are under 26 years of age, you may be eligible for coverage as a dependent in a group health plan of your parent's employer or under your parents' individual market coverage. In addition, you may be eligible to buy individual health insurance directly from a health insurer or health plan, regardless of immigration status.

Please examine your options carefully to see if other options are more affordable and whether you are currently eligible to enroll in these other forms of coverage pursuant to an open or special enrollment period.

10) Defines a "student administrative health fee" as a fee charged by the institution of higher education on a periodic basis to students of the institution of higher education to offset the cost of providing health care through health clinics regardless of whether the students utilize the health clinics or enroll in student health insurance coverage. This fee is not considered a cost-sharing requirement with respect to specified recommended preventive services.

11) Defines "health factor" as, in relation to an individual, any of the following health status-related factors:

    a) Health status
    b) Medical condition, including both physical and mental illnesses;
    c) Claims experience;
    d) Receipt of health care;
    e) Medical history;
    f) Genetic information;
    g) Evidence of insurability, including conditions arising out of acts of domestic violence;
    h) Disability; and,

i) Any other health status-related factor as determined by any federal regulation, rule, or guidance issued pursuant to federal Mental Health Parity and Addiction Equity Act.

Background

According to the federal Centers for Medicare and Medicaid Services (CMS), student health plans are often purchased when family coverage is not available. According to some estimates, as many as three million students are covered through student health plans offered by colleges, universities, or other institutions of higher education. Not all student health plans are the same. Some plans are comprehensive but others offer limited benefits, which can put students and their families at risk for catastrophic medical bills. In addition, these plans are treated differently depending on how and where they are offered. This has created a patchwork system of regulation for these plans that makes it difficult for students and their families to understand their coverage and rights. The federal Department of Health and Human Services (HHS) finalized regulations effective April 20, 2012, that would ensure students enrolled in these plans benefit from important consumer protections created by the ACA, and clarified that these plans are defined as "individual health insurance coverage." There have been updates since 2012. Many commenters to the 2012 CMS rule urged CMS to extend these requirements also to self-funded student plans. The response by CMS included the following, "It is estimated that approximately 200,000 students (less than 1% of the market) are enrolled in coverage offered through self-funded health plans. As discussed earlier in the preamble, these self-funded student plans are not subject to the requirements of the [ACA] because they are neither health insurance coverage nor group health plans, as those terms are defined in the [ACA]." The preamble states that while HHS has no authority to regulate self-funded student insurance, self-funded student health plans may be regulated by the States. The University of California (UC) offers a self-funded student insurance plan in California.

Comments

According to the author, "there are over 140,000 college students and their dependents in California who rely on student blanket coverage provided through the student's university for healthcare benefits. Though these students receive coverage through their university's student blanket insurance, this coverage in practice acts as a form of individual health insurance—a fact that is already recognized federally through the ACA. Yet, here in California, we still define student blanket coverage as a type of disability insurance, rather than as individual health insurance. Because of this, many of our state's consumer protections and

regulations, which ensures better benefits and accessibility for consumers, do not technically apply to student blanket insurance and the 140,000 people that it covers. This bill would fix this by redefining student blanket coverage as a form of individual health insurance, thereby bringing it in compliance with our state's high health insurance standards and ensuring that students and their dependents are receiving the quality of healthcare that is guaranteed to them by the state."

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

According to the Senate Appropriations Committee:

- CDI estimates state operations costs of $69,000 in 2022-23, $146,000 in 2023-24, and $125,000 ongoing thereafter (Insurance Fund).

- University of California indicates no fiscal impact.

SUPPORT: (Verified 8/22/22)

California Department of Insurance (source)
California Insurance Commissioner Ricardo Lara
University of California Student Association

OPPOSITION: (Verified 8/22/22)

None received

ARGUMENTS IN SUPPORT: California Insurance Commissioner Ricardo Lara and CDI, sponsors this bill and write it would align the definition of student blanket policies with federal law, which considers student blanket policies to be individual health insurance and, thus, subject to more regulator oversight and increased consumer protections available under existing federal and state law. Blanket insurance is a type of disability insurance issued to a master policyholder that provides coverage in specific circumstances for persons that fall into a defined group. Colleges and universities often purchase student insurance blanket policies to provide health benefits for their enrolled students, including DACA (Deferred Action for Childhood Arrivals) recipients and refugee students. As of December 2020, nearly 140,000 students and their dependents rely on their college or university for their health benefits. Federal law defines student blanket coverage as student health insurance coverage, and that coverage is generally subject to the individual market requirements found in the ACA. The current California law definition of "health insurance" fails to sweep in student blanket coverage because that definition only applies to group or individual coverage, and blanket coverage is neither. Even though student blanket policies may provide the same benefits as

health insurance -- and federal law requires that these policies comply with individual requirements under the ACA -- state law currently does not require student blanket policies to provide all of the protections that students and dependents would be afforded if they purchased individual health insurance coverage due to existing definitions. This bill defines student blanket coverage as individual health insurance coverage under California law. This definition is taken directly from federal law, and will ensure that student health coverage is subject to the state protections afforded to individual coverage. This alignment will remove ambiguity when state statutes use the term “health insurance.”

ASSEMBLY FLOOR: 70-0, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Mia Bonta, Gabriel, Jones-Sawyer, Mayes, McCarty, O'Donnell, Blanca Rubio

Prepared by: Teri Boughton / HEALTH / (916) 651-4111
8/26/22 15:36:19

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

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THIRD READING

Bill No: AB 1837
Author: Mia Bonta (D), et al.
Amended: 8/11/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-2, 6/21/22
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, McGuire, Stern, Wiener
NOES: Borgeas, Jones

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 55-18, 5/26/22 - See last page for vote

SUBJECT: Residential real property: foreclosure

SOURCE: California Community Land Trust Network

DIGEST: This bill makes anti-fraud modifications and other operational improvements to the SB 1079 (Skinner, Chapter 727, Statutes of 2020) process, an existing legal mechanism giving tenants, prospective owner-occupants, non-profit affordable housing providers, and public entities a window of opportunity to buy a home in foreclosure by matching or beating the winning foreclosure auction bid.

ANALYSIS:

Existing law:

1) Sets forth comprehensive procedures for conducting a foreclosure sale through an auction. (Civ. Code §§ 2924g and 2924h.)

2) Establishes a statutory system whereby eligible bidders may acquire properties consisting of one to four residential dwelling units offered at a foreclosure auction by matching or exceeding the last and highest offer made at the auction. (Civ. Code § 2924m.)

3) Defines "eligible bidder," for purposes of (**Error! Reference source not found.**, above, to include all of the following:
   a) a prospective owner-occupant, defined as a natural person who will occupy the property within 60 days of when the trustee's deed upon sale is recorded and for at least one year thereafter;
   b) an eligible tenant buyer; defined as a natural person who is occupying the property as a primary residence under a rental or lease agreement entered into before a notice of default was recorded against the property;
   c) a nonprofit association, nonprofit corporation, or cooperative corporation in which an eligible tenant buyer or a prospective owner-occupant is a voting member or director;
   d) an eligible nonprofit corporation based in California whose primary activity is the development and preservation of affordable rental housing;
   e) a limited partnership or a limited liability company in which the managing general partner or managing member, respectively, is an eligible nonprofit corporation based in California whose primary activity is the development and preservation of affordable housing;
   f) a community land trust;
   g) a limited-equity housing cooperative;
   h) the state, the Regents of the University of California, a county, city, district, public authority, or public agency, and any other political subdivision or public corporation in the state. (Civ. Code § 2924m(a).)

4) Empowers an individual or entity to bid on the purchase of residential property that has gone up for auction sale provided that the individual or entity presents to the foreclosure trustee a declaration or affidavit stating that the individual or entity is an eligible bidder. (Civ. Code § 2924m; Code Civ. Proc. § 2015.5.)

5) Establishes a procedure for eligible bidders to meet or beat the last and highest foreclosure auction bid during a specified period after the auction. (Civ. Code § 2924m(c).)

6) Establishes a comprehensive schedule of fees that can be charged by foreclosure trustees for their services. (Civ. Code § 2924d.)

This bill:

1) Requires eligible tenant buyers to attach a copy of their dated and signed rental or lease agreements, if available, to the affidavits in which they affirm their status or, if the rental or lease agreement is not available, then either:

   a) evidence of rent payments corresponding to the six months prior to the notice of default; or
   b) copies of utility bills for the rental property corresponding to the six months prior to the notice of default.

2) Specifies that in order to qualify as an eligible tenant bidder, the bidder cannot:
   a) be acting as the agent of any other person or entity, except as to the submission of a collective bid;
   b) have filed for bankruptcy, as specified, in the 45 day period after the trustee's sale.

3) Alters the categories of affordable housing providers that qualify as eligible bidders, including by requiring that, to be eligible, nonprofit corporations must:
   a) have their principal place of business in California;
   b) have all of their board members' primary residence in California;
   c) have one of their primary activities be the development and preservation of affordable rental or homeownership housing in California;
   d) be registered and in good standing with the Attorney General's Registry of Charitable Trusts, as specified; and
   d) have a determination letter from the Internal Revenue Service affirming their tax-exempt status as a 501(c)(3) corporation.

3) Declares that bids are limited to a single bid amount and may not include instructions for successive bid amounts.

4) Requires that the affidavit or declaration of the winning bidder that it is an eligible bidder and the category of bidder which it falls under to be attached to the trustee's deed and recorded.

5) Specifies that title to the property remains with the mortgagor or trustor until the property sale is deemed final.

6) Requires the trustee, within 15 days of any sale in which the winning bidder is an eligible bidder, to send information about the sale to the Attorney General electronically, including the name of the winning bidder, the address and assessor's parcel number of the property, and a copy of the trustee's deed, together with the attached affidavit or declaration.

7) Requires the Department of Justice (DOJ) to include a summary of the information set forth in (5), above, in a searchable repository on the DOJ's website.

8) Authorizes the Attorney General, a city attorney, county counsel, or district attorney to bring an action for specific performance or any other remedy at equity or law to enforce the requirements of the SB 1079 bid process.

9) Permits the trustee, in order to cover costs associated with handling post-foreclosure auction bids by eligible bidders, to deduct from the foreclosure sale proceeds a fee which may not exceed the greater of $200 or one-sixth of one percent of the unpaid principal of the loan that was secured by the property being foreclosed on. However, a trustee may claim this fee only if, within the first 15 days after a foreclosure auction, at least one eligible tenant buyer or eligible bidder submits a bid or a nonbinding written notice of intent to place a bid on the property.

10) Requires, beginning on January 1, 2023, that any property purchased by an eligible bidder that is a private entity (i.e., not a prospective owner-occupant, a tenant buyer, or a public entity) through the SB 1079 process be subject to a recorded covenant ensuring that the property will be maintained as affordable housing for lower income households for a period of 30 years from the date the trustee's deed is issued.

11) Permits the imposition of requirements to maintain property as affordable housing for lower income householders for periods longer than 30 years if specified conditions are met.

12) Extends the existing sunset date on the SB 1079 process from January 1, 2026 until January 1, 2031, applies this extended sunset date to this bill's provisions, and makes corresponding changes to relevant code sections.

Background

California enacted SB 1079 (Skinner, Chapter 727, Statutes of 2020) as one strategy for trying to reduce the transfer of residential property into the hands of large institutional investors through the foreclosure process. SB 1079 introduced a new step into the foreclosure sale process. The new step has the effect of opening up a window of time in which the current tenants, prospective owner occupants, affordable housing providers, and public entities all have the opportunity to try to

acquire the home. Under the old pre-foreclosure procedures, when it came time for the property to be sold off, the foreclosure trustee simply convened a public auction, took bids from those present, and awarded ownership of the property to the highest bidder upon payment. Under SB 1079, the same basic process unfolds except that, once the amount of the winning bid has been established, the foreclosure trustee waits an additional period of time. During this additional time, any "eligible bidder" – meaning a current tenant, a prospective owner occupant, an affordable housing provider, or a public entity – all have the opportunity to match or exceed the winning bid from the auction.

Preventing people from gaming the SB 1079 system

SB 1079's first year in effect revealed some flaws. The author and sponsors of this measure report that some real estate speculators have taken advantage of SB 1079's definition of who qualifies as an eligible bidder to bid on homes during the SB 1079 window of opportunity, purchase those homes, and then immediately resell them at a significant markup. The author and sponsors also report cases in which auction bidders have been observed fraudulently invoking the SB 1079 process by submitting documentation to the foreclosure trustee that falsely assert an intent to reside at the property.

To close these loopholes and generally make it more difficult for anyone to try to take advantage of the SB 1079 process, this bill makes a series of revisions to that process, detailed further in the Senate Judiciary Committee analysis.

Compensation for foreclosure trustees' additional time in the SB 1079 process

In addition to its anti-fraud measures, the bill also provides for modest additional compensation for foreclosure trustees if an eligible bidder makes an eligible bid triggering the SB 1079 process. Specifically, the foreclosure trustee could claim an additional fee of one-sixth of one percent of the outstanding principal balance secured by the foreclosed-upon loan. This payment comes as acknowledgment that the SB 1079 process does require additional time and effort from the trustees and, accordingly, a higher level of compensation is appropriate.

Extending the life of the SB 1079 process

As a final component, the bill pushes out the applicable sunset date for the statutes that establish the SB 1079 process. Under the present law, the SB 1079 process is scheduled for repeal in 2021. This bill would extend it for an additional five years.

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

According to the Senate Appropriations Committee, the California Department of Justice reports costs of $97,000 in Fiscal Year (FY) 2022-23 and $158,000 in FY 2023-24 and annually thereafter for additional staff resources and operating expenses and equipment (General Fund).

SUPPORT: (Verified 8/10/22)

California Community Land Trust Network (co-source)
ACT LA
Alameda County Democratic Party
Alliance of Californians for Community Empowerment
ASIAN, Inc.
Anti-Eviction Mapping Project
Avanzando San Ysidro Community Land Trust
BAOBOB (Bay Area Organization of Black Owned Businesses)
Berkeley Tenants Union
Bend the Arc: Jewish Action Southern California
Black Arts Movement Business District Community Development
Bolinas Community Land Trust
Burbank Housing
California Asset Building Coalition
California Capital Financial Development Corporation
California Coalition for Rural Housing
California Community Builders
California Community Economic Development Association
California Democratic Party Renters' Council
California Hawaii State Conference of the NAACP
California Housing Partnership Corporations
California Low-Income Consumer Coalition
California Reinvestment Coalition
Californians for Economic Justice
California Association for Micro Enterprise
CARE Community Land Trust
Center for California Homeowner Association Law
Central Valley Urban Institute
CommonSpace Community Land Trust
Community Economics
Community Financial Resources
Community Housing Development Corporation

Community Housing Works
Congregations Organized for Prophetic Engagement
Consumer Action
Consumer Advocates Against Reverse Mortgage Abuse
Crenshaw Subway Coalition
Courage California
East Bay Community Law Center
East Bay Housing Organizations
East Los Angeles Community Corporation
Eden Community Land Trust
El Sereno Community Land Trust
EPACANDO
Esperanza Community Housing
Fair Housing Advocates of Northern California
Fair Housing Council of the San Fernando Valley
Faith Action for All
Faith and Community Empowerment
Greater Sacramento Urban League
Haven Neighborhood Services
Home Preservation and Prevention, Inc.
Homeownership San Francisco
Housing Now! CA
Housing Rights Center
Housing Rights Committee of San Francisco
Inclusive Action for the City
Inner City Law Center
Inland Equity Community Land Trust
Inland Equity Partnership
Irvine Community Land Trust
Jakara Movement
Koreatown Youth & Community Center
Law Foundation of Silicon Valley
Liberty Community Land Trust
Logan Heights CDC
Meadow Farm Community Land Trust
Mission Asset Fund
Mission Economic Development Agency
Montebello Housing Development Corporation
Multicultural Real Estate Alliance for Urban Change
Mutual Housing California

National Housing Law Project
Neighborhood Partnership Housing Services
New Economics For Women
Nonprofit Housing Association of Northern California
Northern California Land Trust
Oakland Community Land Trust
Pacific Coast Regional Small Business Development Corporation
Pahali Community Land Trust in East Palo Alto
Policy Link
Public Advocates
Public Counsel
Public Law Center
Gabriel Quinto, Mayor, City of El Cerrito
Reinvent South Stockton Coalition
Renaissance Entrepreneurship Center
Richmond LAND
Richmond Neighborhood Housing Services, Inc.
Richmond Our Power Coalition
Sacramento Community Land Trust
Sacramento Environmental Justice Coalition
Sacramento Housing Alliance
Saint Joseph Community Land Trust
San Diego Community Land Trust
San Francisco Community Land Trust
Santa Barbara Tenants Union
South Bay Community Land Trust
Strategic Actions for a Just Economy
Starting Over, Inc.
Sustainable Economies Law Center
SV@ Home Action Fund
Tenants Together
Tenderloin Neighborhood Development Corporation
Thai Community Development Center
The Central Valley Urban Institute
The Greenlining Institute
The Public Interest Law Project
T.R.U.S.T. South LA
United Trustees Association
Ventura County Community Development
Western Center on Law and Poverty

OPPOSITION: (Verified 8/10/22)

African American Empowerment Coalition
Epicenter Foundation
Faith Church Los Angeles
I AM
Jesse Miranda Center for Hispanic Leadership
National Asian American Coalition
National Diversity Coalition
Neighborhood Impac Corp
Oasis Center International
PEMCO Capital Management
Pikes Peak Capital
The Answer City Outreach

ARGUMENTS IN SUPPORT: According to the author, "In 2020, we passed landmark legislation to ensure that investor corporations were not allowed to capitalize on a foreclosure crisis by creating a fairer process under which non-profits or prospective homeowners could outbid corporations. However, for-profit actors have found ways to exploit this important consumer bill. […] AB 1837 will close these existing loopholes […] [and] create a fairer and more affordable path to housing for prospective homeowners, not corporations."

As sponsor of the bill, the California Community Land Trust Network writes, "In 2021, housing advocates became aware that for-profit actors were finding ways to defy SB 1079 and even manipulate it in their favor. […] AB 1837 (Bonta) would strengthen the law and deter those who would misuse it."

ARGUMENTS IN OPPOSITION: According to a coalition of eight organizations, "AB 1837 creates an excessive legal burden for an already-vulnerable low income population and risks entrenching prospective low- and moderate income homeowners in a cycle of poverty by removing their ability to build equity from their primary residence."

ASSEMBLY FLOOR: 55-18, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas,

Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Mayes, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Gray, McCarty, O'Donnell, Villapudua

Prepared by: Timothy Griffiths / JUD. / (916) 651-4113
8/15/22 13:05:05

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

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THIRD READING

Bill No: AB 1851
Author: Robert Rivas (D)
Amended: 8/22/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 6/13/22
AYES: Cortese, Durazo, Laird, Newman
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 58-13, 5/26/22 - See last page for vote

SUBJECT: Public works: prevailing wage: hauling

SOURCE: California Teamsters Public Affairs Council

DIGEST: This bill expands the definition of "public works" to include on-hauling of materials used for paving, grading, and fill onto a public works site and requires workers performing this work to be subject to prevailing wage requirements.

Senate Floor Amendments of 8/22/22 clarify that the intent of this bill is to restore the holdings of *OG Santone* and its subsequent interpretations, as it relates to the on hauling of materials used for paving, grading, and fill onto a public works site.

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, except work done directly by any public utility company pursuant to an order of the Public Utilities Commission or other public authority. [Labor Code §1720(a)]

3) Specifies that for prevailing wage purposes, "construction" includes work performed during the design and preconstruction phases of construction, including, but not limited to, inspection and land surveying work and work performed during the postconstruction phases of construction, including, but not limited to, all cleanup work at the jobsite. [Labor Code §1720(a)]

4) Defines "paid for in whole or in part out of public funds" as, among other things, "Fees, costs, rents, insurance or bond premiums, loans, interest rates, or other obligations normally required in the execution of a contract that are paid, reduced, charged at less than fair market value, waived or forgiven." [Labor Code §1720(b)]

5) 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)

6) Provides that private residential projects built on private property are not subject to the requirements of public works provisions, unless the projects are built pursuant to an agreement with a state agency, redevelopment agency, or local public housing authority. [Labor Code §1720(c)(1)]

7) Authorizes the Labor Commissioner, or their designee, to issue civil wage and penalty assessments on a contractor or subcontractor, or both, that fails to pay prevailing wages in connection with a public work. (Labor Code §1741)

This bill adds the on-hauling of materials used for paving, grading, and fill onto a public works site to the definition of Public Works, if the project in question involves a contract with a state agency, the California State University, the University of California, or any political subdivision of the state.

Comments

Need for this bill? Mendoza (2019) and Busker (2018). Recent court findings have created a certain amount of uncertainty on the applicability of public works laws, in particular prevailing wage, to the moving of certain materials on to and off of a

public works site. The question in *Mendoza* was "whether offsite mobilization work conducted in connection with a public works project is performed 'in the execution of [a] contract for public work' such that it entitles workers to prevailing wage."[1] Similarly, the question in *Busker* centered on "whether work installing electrical equipment of locomotives and rail care (i.e. the 'on-board work' for Metrolink's PTC project) falls within the definitions of public works under California Labor Code 1720 (a) (1) either as constituting 'construction' or 'installation' under the statute or as being integral to other work performed for the PTC project on the wayside."[2]

In both of the above decisions, the court found that the plaintiffs were engaged in work that was not subject to prevailing wage law. However, as noted in *Busker* "the text of the prevailing wage law is susceptible to both of the opposing interpretations offered by the parties… We do not find the answer to the issues of state law presented by this case to be obvious."

OG Sansone Co. (1976). These rulings can be seen as somewhat of a departure from previous case law in *OG Sansone Co. v. Department of Transportation*. The plaintiffs in the case "hauled Class 3 aggregate subbase materials from locations not on the project site, but located adjacent to and established exclusively to serve the project site pursuant to private borrow agreements between plaintiffs and parties."[3] The finding in *OG Sansonse* can be seen as more liberally construed to allow for work that is integral to the project, but might take place outside of the site to be considered part of the public works project.

Related/Prior Legislation

AB 1717 (Aguiar-Curry, 2022) expands the definition of "public works," for the purpose of the payment of prevailing wages, to also include fuel reduction work paid for in whole or in part out of public funds performed as part of a fire mitigation project, including, but not limited to, residential chipping, rural road fuel breaks, fire breaks, and vegetation management.

AB 1886 (Cooper, 2022) expands the definition of "public works" for the purpose of the payment of prevailing wages to include street sweeping maintenance performed for the preservation, protection, and keeping of any publicly owned or publicly operated street, road, or highway done under contract and paid for in whole or in part out of public funds.

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[1] "*Mendoza v. Fonseca McElroy Grinding CO., Inc"* No. 17-15221, US Court of Appeals, Ninth Circuit
[2] "*Busker v. WABTEC Corporation"* No. 17-55165, US Court of Appeals, Ninth Circuit
[3] "*OG Sansone Co. v. Department of Transportation"* Docket No. 45232, Court of Appeals of California, Second District, Division Three.

AB 2231 (Kalra, Chapter 346, Statutes of 2020) defined a public subsidy as de minimis for the purpose of paying the prevailing wage in private projects if it is both less than $600,000 and less than 2% of the total project cost for bids advertised or contracts awarded after July 1, 2021. If the subsidy is for a residential project consisting entirely of single family dwellings, the subsidy is de minimis so long as it is less than 2 % of the total project cost.

AB 2765 (O'Donnell, Chapter 355, Statutes of 2020) expanded the definition of "public works," for the purpose of the payment of prevailing wages, to also include any construction, alteration, demolition, installation, or repair work done under private contract on a project for a charter school, as defined, when it is paid for, in whole or in part, with the proceeds of conduit revenue bonds issued on or after January 1, 2021.

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

According to the Senate Appropriations Committee, DIR indicates that it would incur first year costs of $1.9 million, and $1.8 million annually thereafter, to implement its provisions of this bill (Labor Enforcement and Compliance Fund). Cost drivers would include additional oversight of public works activities compared to current law. Specifically, DIR's Division of Labor Standards Enforcement would experience additional investigations of complaints, and resulting enforcement activities. The department would likely see an increase in workload related to appeals as well.

The California Department of Transportation has yet to develop a fiscal estimate for the current version of this bill. However, annual costs would likely be, minimally, in the millions of dollars annually (special fund). Relative to current law, this bill would result in increased project expenses (specifically higher bids driven by increased wages) related to on-hauling materials, on-site verification of work performed by hauling contractors and other prevailing wage compliance activities. The department's DIR-delegated labor compliance program would likely require increased staff to inspect hauling activities and enforce prevailing wage requirements.

SUPPORT: (Verified 8/23/22)

California Teamsters Public Affairs Council (source)
California Labor Federation, AFL-CIO
California State Association of Electrical Workers
California State Pipe Trades Council
International Union of Elevator Constructors

Painters & Allied Trades District Council 16
Painters and Trades District Council 36
State Building & Construction Trades Council of California
Western States Council Sheet Metal, Air, Rail and Transportation

OPPOSITION: (Verified 8/23/22)

None received

ARGUMENTS IN SUPPORT: The California Teamsters Public Affairs Council, the sponsor of this bill, writes in support:

"Unfortunately a series of recent California Supreme Court decisions found that because on-haul trucking is not specifically mentioned in statute as comprising part of a public works project it is unclear whether it is eligible for prevailing wages. As a result, the Department of Industrial Relations could benefit from clarity over whether on-haul truckers at public works projects are to be paid at prevailing wage.

"Prevailing wages standards ensure more projects are built by well-trained local workers who know how to get the job done right the first time. In turn, this benefits taxpayers and the economy. For example, California's prevailing wage law creates 17,500 jobs annually; and boosts the economy by $1.4 billion, every year. Likewise, studies consistently show that prevailing wage has no impact on total construction costs. This is because utilizing higher skilled local workers on dangerous construction jobs increases productivity and job site efficiency. By stabilizing the wage floor, it also reduces reliance on taxpayer funded welfare programs. As such, prevailing wage requirements can help ensure that workers earn a living wage, close racial and gender pay gaps, and ultimately save money by guaranteeing high-quality work and boosting worker productivity."

ASSEMBLY FLOOR: 58-13, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Cooley, Cooper, Daly, Davies, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Choi, Megan Dahle, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Seyarto, Smith, Voepel, Waldron

NO VOTE RECORDED: Berman, Cunningham, Flora, Mayes, O'Donnell, Patterson, Valladares

Prepared by: Jake Ferrera / L., P.E. & R. / (916) 651-1556
8/23/22 14:43:40

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1856
Author: Medina (D)
Introduced: 2/8/22
Vote: 21

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

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 76-0, 5/26/22 - See last page for vote

SUBJECT: Community colleges: part-time employees

SOURCE: California Federation of Teachers

DIGEST: This bill increases the maximum amount of instructional hours that a *part-time* California Community College (CCC) faculty member may teach at any one community college district.

ANALYSIS:

Existing law:

1) Defines "faculty" as those employees of Community College Districts (CCD) who are employed in academic positions that are not designated as supervisory or management, as specified. Faculty include, but are not limited to, instructors, librarians, counselors, community college health services professionals, handicapped student programs and services professionals, and extended opportunity programs and services professionals (Education Code (EC) Section 87003).

2) Establishes Legislative intent that the rights of part-time, temporary faculty shall be included as part of the usual and customary negotiations between the CCD and the exclusive representative for part-time, temporary faculty;

3) Establishes Legislative intent that the CCD establish minimum standards for the terms of reemployment preference for part-time, temporary faculty, through the negotiation process, which complies with all of the following:

   a) The standards include all of the following:

      i) The length of time the faculty have served at the college or CCD;

      ii) The number of courses faculty have taught at the college or CCD;

      iii) The evaluations of faculty required pursuant to existing law and any other related methods of evaluation that can be reliably used to assess educational impact of faculty as it relates to student success; and,

      iv) The availability, willingness, and expertise of faculty to teach specific classes or take on specific assignments that is necessary for student instruction or services.

   b) Additional standards may be considered and established through the negotiation process, as necessary;

4) Requires, as a condition of receiving Student Success and Support Program (SSSP) funding, a CCD and the exclusive representative of the part-time, temporary faculty to negotiate in good faith all of the following:

   a) The terms of reemployment preference for part-time, temporary faculty assignments based on the minimum standards established, up to the range of 60 to 67% of a full-time equivalent load; and,

   b) A regular evaluation process for part-time, temporary faculty;

5) Requires a CCD that has a collective bargaining agreement in effect as of July 1, 2017, that has satisfied the aforementioned requirements, and that executes a signed written agreement with the exclusive representative of the part-time, temporary faculty acknowledging implementation shall be deemed to be in compliance with this section while the bargaining agreement is in effect (EC 87482.3).

6) Defines any person who is employed to teach at a CCD for not more than 67% of the hours per week considered a full-time assignment to be a part-time, temporary employee (EC Section 87482.5).

7) The Board of Governors (BOG) of the CCC has had a longstanding policy (commonly referred to as "75/25") that at least 75% of the hours of credit instruction in the community colleges, as a system, should be taught by full-time instructors. Existing law requires the BOG to adopt regulations regarding the percent of credit instruction taught by full-time faculty and authorizes districts with less than 75% full-time instructors to apply a portion of their "program improvement" funds toward reaching a 75% goal. However, the state has stopped providing program improvement funds and the BOG has since required CCDs to provide a portion of their growth funds to hire more full-time faculty (EC 87482.6).

This bill:

1) Updates, as follows, existing provisions requiring CCDs, as a condition of receiving funding allocated for the Student Equity and Achievement Program (SEAP), to negotiate with bargaining representatives specified conditions of employment for part-time faculty:

   a) For a district without a collective bargaining agreement with part-time faculty in effect as of January 1, 2023, to commence negotiations on that date;

   b) For a district with a collective bargaining agreement in effect as of January 1, 2023, to commence negotiations no later than the expiration date of that agreement; and,

   c) The terms of reemployment preference for part-time faculty assignments shall be based on the minimum standards not exceeding the range of 80 to 85% (instead of a range of 60 to 67%) of a full-time faculty member's equivalent load, and the district shall not restrict the negotiated terms to less than the range of 80 to 85% unless explicitly agreed upon for an individual part-time faculty member by that faculty member and the district.

2) Increases, from 67% to 85%, the proportion of hours per week of a full-time faculty assignment that a part-time CCC instructor may teach and still be classified as a temporary employee.

3) Stipulates that, if (2), as enumerated above, is in conflict with any collective bargaining agreement already entered into as of January 1, 2023, the terms of that agreement shall govern until its expiration.

4) States it is not the intent of the Legislature to require a community college district to increase the number of available part-time, temporary faculty assignments as a result of any increase to the minimum standards as a result of this measure.

Comments

1) *Need for the bill.* According to the author, "Under the 67% threshold, many faculty members teach in multiple California Community College districts at the same time to piece together a full-time schedule, limiting their ability to participate in the campus community and be a resource to students. Current law requires that an individual employed to teach adult or community college course for 67% or less of the hours per week is considered a full-time assignment, excluding substitute service, be classified as a temporary employee and not become a contract employee."

   The author contends that "Faculty, both full- and part-time are instrumental in creating a college environment that fosters student success. Increasing the hours part-time faculty members are permitted to work helps ensure students have better access to their professors."

2) *How would this bill help part-time faculty?* Current law limits part-time faculty to 67 percent of the hours that constitute a full-time faculty assignment for a particular district. A full-time teaching load, which earns the employee a full salary, benefits, and tenure, is determined through collective bargaining and is 15 units on average. Part-time faculty are considered temporary employees and many teach in multiple districts at the same time to piece together a full-time schedule (earning them the nickname "freeway flyers"). As a result, part-time faculty are limited in their ability to participate in a campus community and be a resource for students.

   By allowing up to 85 percent of a full-time load, this bill could allow part-time faculty to spend more time at a given district and reduce the amount of time spent driving from campus to campus. The reduced drive time would mean more time to do the proper class prep, get needed rest, or be with their families. According to the sponsors of this bill, it is not uncommon for adjuncts with

small children to go days without seeing their children awake, having to leave for work early in the morning before they wake and come home at night after they have gone to bed.

According to the CCC Chancellor's Office (CCCCO), for Fall 2020, the CCC employed 16,294 full-time faculty and 33,661 part-time faculty.

3) *Student Success and Support Program (SSSP).* The SSSP provided ongoing funding to CCDs for student support in admissions, orientation, assessment, counseling and student follow up. However, according to the Legislative Analyst's Office, the Committee on Budget (AB 1809), Chapter 33, Statutes of 2018, consolidated the SSSP and another program, the Student Success for Basic Skills, into a block grant, known as the SEAP. Funding for the new block grant program ($475 million statewide in 2017-2018) was based on CCDs' 2017-18 fiscal year allocations for the consolidated programs. As a condition of receiving funds, CCDs are required to develop student equity plans, deliver student matriculation services and adopt assessment and placement policies, as specified under current law.

   To note, as of 2021-2022, the SEAP funding level is $498 million; the Governor's 2022-2023 Budget Proposal does not include an increase to SEAP.

4) *Similar measure vetoed last year.* The author carried a substantively similar bill, AB 375 (Medina, 2021) which was vetoed by Governor Newsom. The veto message read, in part "Our system of community colleges could not operate without part-time faculty. Even though they carry an enormous amount of the teaching load across the system, these qualified instructors must often teach at multiple campuses in order to piece together higher wages, and do not receive the same salary or benefits as their full-time colleagues.

   "While I understand the objectives of this legislation, this bill would create significant ongoing cost pressures on the state and community college districts, potentially in the hundreds of millions of dollars. Such a high expenditure is better addressed in the State Budget process, which is why I am committed to considering options to support our community college part-time faculty in my forthcoming January budget proposal."

   The Governor's 2022-2023 budget includes a $200 million ongoing augmentation for the Part-Time Faculty Health Insurance Program, a 400-fold increase to a program that is currently funded at $490,000 dollars. According to

information from the sponsor of AB 1856, "These additional funds will more than pay for the very limited number of part-time faculty that could trigger any new health care cost obligation for districts by raising the cap on hours part-time faculty can teach."

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

According to the Senate Appropriations Committee, the Chancellor's Office estimates that this bill could result in $200 million to $403.5 million in ongoing Proposition 98 General Fund costs each year for community college districts to offer health insurance benefits to part-time faculty, depending on the exact number of faculty who qualify. This estimate assumes that the bill would trigger Affordable Care Act (ACA) requirements due to the additional unit load and potential increase in office hours and other workload requirements. This estimate also assumes an annual employer contribution of $11,000 for 18,384 to 36,768 part-time faculty employed by community college districts throughout the state. To the extent that districts are already providing health benefits to these employees, this estimate could be lower. Staff notes that the 2022 Budget Act includes a $200 million Proposition 98 General Fund increase for the Part-Time Faculty Health Insurance Program (above its current funding level of $490,000). This augmentation expands health care coverage provided to part-time faculty.

This bill could also result in one-time Proposition 98 General Fund costs of between $360,000 and $720,000 for community college districts to update or create collective bargaining agreements with part-time faculty. This estimate assumes a cost of about $5,000 to $10,000 for each of the state's 72 districts.

SUPPORT: (Verified 8/12/22)

California Federation of Teachers (source)
California Labor Federation
California Part-time Faculty Association
Faculty Association of California Community Colleges
GenUP

OPPOSITION: (Verified 8/12/22)

Association of Community and Continuing Education
Contingent Faculty for Equality
Mt. San Antonio College
North Orange County Community College District

ARGUMENTS IN SUPPORT: According to the California Federation of Teachers, the sponsor of the bill, "…existing law, known as the "67% law" caps the teaching load of part-time temporary faculty to 67% of the hours that constitute a full-time faculty assignment. A full-time teaching load is defined as the number of in-class hours that a contract/full-time faculty member must fulfill in order to earn a full salary, benefits, and tenure. These required teaching hours vary according to the teaching discipline. A full-time teaching load for each discipline is negotiated by the local community college district; however, on average, a full-time load is 15 units."

The CFT contends that, "due to the 67% law, many part-time faculty must teach in multiple community college districts at the same time to piece together a full-time schedule - so called "Freeway Flyers." This limits their ability to participate in the campus community and be a resource to students. AB 1856 (Medina) would increase the cap on part-time faculty workloads to the range of 80% to 85% of a full-time faculty load. This would apply to any new collective bargaining agreement, or upon expiration of any negotiated agreement in effect on January 1, 2023. This bill is a crucial first step in improving the working conditions for part-time faculty in [CCCs]."

ARGUMENTS IN OPPOSITION: According to Mt. San Antonio College, "Some districts and their employee groups have already bargained and opted to provide this benefit, while others have jointly determined that it is not the best use of financial resources of the district and have made other employee compensation decisions as a result. This bill would restrict the flexibility that community college districts need to ensure that all of their employees have adequate benefits for a variety of scenarios beyond the scope of what is in this legislation.

As currently written, this bill would create a new costly mandate while districts are already facing tightened budgets and increased cost pressures as we begin to transition out of the COVID-19 pandemic."

ASSEMBLY FLOOR: 76-0, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas,

Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Ian Johnson / ED. / (916) 651-4105
8/13/22 12:12:31

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

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THIRD READING

Bill No: AB 1857
Author: Cristina Garcia (D)
Amended: 8/23/22 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-2, 6/22/22
AYES: Allen, Eggman, Gonzalez, Skinner, Stern
NOES: Bates, Dahle

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 52-19, 5/25/22 - See last page for vote

SUBJECT: Solid waste

SOURCE: Californians Against Waste
EarthJustice
East Yard Communities for Environmental Justice
Valley Improvement Projects

DIGEST: This bill repeals the provision of law that allows jurisdictions to count up to 10 percent of the waste sent to transformation toward their 50 percent diversion requirement and creates the Zero-Waste Equity Grant Program to support strategies and investments in communities transitioning to a zero-waste circular economy.

Senate Floor Amendments of 8/23/22 make changes to the Zero-Waste Equity Grant program, including making qualifying tribal entities eligible for the grant program, giving priority to communities most impacted by transformation or that contribute to significant amounts of transformation, and limiting the grant program to programs that result in the reuse, repair, and sharing of goods and materials; specify that grants shall not be provided for a project that results in incineration, energy generation, and fuel production, or other forms of disposal; and require the

Department of Resources Reduction and Recycling (CalRecycle) to consult with the Department of Industrial Relations, instead of the Division of Occupational Safety and Health, when submitting policy recommendations on how to increase job opportunities and improve labor standards and worker pay related to the zero-waste job sector.

ANALYSIS:

Existing law, under the Integrated Waste Management Act (IWMA):

1) Establishes a state recycling goal of 75% of solid waste generated by diverting from landfill disposal by 2020 through source reduction, recycling, and composting. (Public Resources Code (PRC) § 41780.01)

2) Requires each local jurisdiction to prepare and adopt a source reduction and recycling element (SRRE) with primary emphasis on implementation of all feasible source reduction, recycling, and composting programs while identifying the amount of landfill and transformation capacity that will be needed for solid waste that cannot be reduced at the source, recycled, or composted. (PRC §§41000 et seq, 41300 et seq)

3) Requires each local jurisdiction's SRRE to include an implementation schedule that diverts 50% of solid waste from landfill disposal through source reduction, recycling, and composting. The amount diverted is known as the jurisdiction's "diversion rate." Since 2008, this requirement has shifted to a 50% disposal rate based on per capita disposal. (PRC §§41780, 41780.05)

4) Allows jurisdictions to count up to 10 percent of the waste that they send to transformation facilities toward the 50 percent diversion obligation if specified conditions are met, including that the facility began operating before January 1, 1995. (PRC §41783)

5) Defines "transformation" as incineration, pyrolysis, distillation, or biological conversion other than composting, but does not include composting, gasification, engineered municipal solid waste (EMSW) conversion, or biomass conversion. (PRC §40201)

6) Defines "biomass conversion" as the production of heat, fuels, or electricity by the controlled combustion of, or the use of other noncombustion thermal conversion technologies (e.g., gasification or pyrolysis) of specified types of biomass, such as agricultural, forestry, and yard wastes. (PRC §40106)

7) Defines "engineered municipal solid waste conversion" (EMSW conversion) as the conversion of solid waste that meets specified conditions. (PRC §40131.2)

This bill:

1) Repeals the provision of law that allows jurisdictions to count waste sent to transformation for up to 10 percent of their 50 percent diversion requirement and makes other conforming changes.

2) Requires CalRecycle, upon appropriation, to establish and administer the Zero-Waste Equity Grant Program as a competitive grant program for local public agencies, cities, counties, nonprofit organizations and qualifying tribal entities to support targeted strategies and investments in communities transitioning to a zero-waste circular economy. Requires programs result in the reuse, repair, and sharing of goods and materials. Requires CalRecycle, within a year of the appropriation for the grant program, to conduct at least two public workshops, as specified, including an online virtual option for participation, and to prepare and adopt guidelines and procedures for evaluating competitive grant applications.

   a) In evaluating a grant application, requires CalRecycle to prioritize communities most impacted by transformation or that contribute to significant amounts of transformation. In giving this priority, requires CalRecycle to consider all of the following:

      i) A community's proximity to a transformation facility that was in operation on January 1, 2018.

      ii) The potential amount of solid waste that is expected to be diverted from transformation facilities through the proposed project.

      iii) A community's proximity to an EMSW facility.

   b) Prohibits grants from being provided for a project that will result in combustion, incineration, energy generation, and fuel production, or any other form of disposal, as specified.

   c) Requires CalRecycle to post on its website and submit to the Legislature a report on all eligible zero-waste projects funded, as specified.

3) Requires, within two years of the appropriation for the Zero-Waste Equity Grant Program, CalRecycle, in consultation with the California Workforce Development Board and the Department of Industrial Relations, to submit

policy recommendations to the Legislature on how to increase job opportunities and improve labor standards and worker pay related to the zero-waste job sector.

Background

Transformation. Transformation includes the incineration of solid waste to produce heat or electricity. Under the Act, transformation also includes pyrolysis, distillation, or biological conversion other than composting; however, it excludes biomass conversion. Transformation facility operators are required to report tonnages and origins of waste transformed and report the information to CalRecycle's Disposal Reporting System, maintain compliance with all applicable laws and permit requirements, and test ash quarterly for hazardous materials and manage it appropriately. There are two transformation facilities, both incinerators, in California: Covanta Stanislaus Inc. in Stanislaus County and Southeast Resource Recovery in Long Beach.

Comments

Purpose of this bill. According to the author, "AB 1857 corrects a deficiency in waste management law that has caused harm in overburdened communities for over three decades. The Integrated Waste Management Act "Act" (AB 939 in 1989) mandates that jurisdictions must divert at least 50% of their waste away from landfills and into source reduction, recycling, reuse, and composting activities. However, the Act permits jurisdictions to count up to 10% of the waste ("Diversion Credit") that they send to municipal solid waste incinerators towards their obligation to divert at least 50% of their waste away from landfills. It is past-due that the legislature update state-wide policy on municipal incinerators to better advance equity and sustainability in waste management law and make it clear that burning trash isn't recycling once and for all. Municipal waste incinerators are a reminder of how environmental racism can become normalized as a policy neutral solution when the story is always more complicated. It is hard to ignore the 30 years of lived experiences from frontline communities which live near an incinerator and the scientific data that shows the harmful health impacts from these facilities. Our state needs to turn away from municipal incineration as a viable option. Moreover, California needs to support zero-waste strategies with funding and policy changes to better leverage our investments going forward."

Pros and Cons of Transformation. Proponents of transformation state that it reduces greenhouse gas (GHG) emissions over landfilling by avoiding methane emissions, recovers the metals from solid waste that would otherwise be landfilled, and provides a reliable energy source. Transformation reduces the volume of

material by about 90%, and the remaining 10% is ash that is either landfilled in a solid waste landfill or a hazardous waste facility. According to information provided by the City of Long Beach, the Southeast Resource Recovery Facility operates up to 99% below federal emissions standards and its emissions are lower when compared to other local air emissions in the South Coast Air Quality Management District. Transformation facilities are used by a number of law enforcement agencies to destroy controlled substances, evidence, and seized firearms; some local governments have raised concerns about finding alternative disposal options for these materials if the facilities were to close.

However, because a transformation facility operates within or below what is required of the facility by federal law, does not mean it is without environmental impacts to the surrounding communities. According to the United States Environmental Protection Agency, solid waste incinerators typically emit hazardous air pollutants, including dioxin, furan, mercury, lead, cadmium, and other heavy metals. Other emissions from transformation facilities include nitrogen oxides, volatile organic compounds, particulate matter, and carbon monoxide. For this reason, they are required to have air pollution controls, such as afterburners to reduce carbon monoxide emissions, scrubbers to remove particulates and acid gases, filters to remove particulates, and dry sorbent injection for acid gas control. The types of pollution controls used depend on the composition of the wastes burned and on the design of the solid waste incinerator.

In addition to air emissions, incinerator ash is also an environmental concern. Ash should be disposed of in a solid waste landfill or in a hazardous waste facility, if testing determines it is hazardous. In March 2018, both the Los Angeles County Department of Public Health and CalRecycle inspection reports noted ash concerns at Southeast Resource Recovery, including ash accumulation along the roads at and near the site, and nearby drain grates were clogged with ash, posing health concerns for nearby residents and potential impacts to waterways.

The claim that transformation reduces GHG emissions over landfilling is disputed by a number of organizations and relies on the assumption that the portion of waste that is “biogenic” (e.g., food scraps, paper, wood, etc.) should not be counted towards the transformation facility’s GHG emissions because it is "carbon neutral" since plants and trees regrow. However, even without including the biogenic portion of the waste steam, transformation facilities emit more carbon dioxide per megawatt hour than coal power plants. According to a report by Earthjustice, East Yard Communities for Environmental Justice, and the Valley Improvement Projects, incinerators emit more carbon dioxide per unit of energy than coal-fired power plants.

Transformation facilities in California are located in environmental justice communities. According to the report by EarthJustice, East Yard Communities for Environmental Justice, and the Valley Improvement Projects, the population within a 5-mile radius of Southeast Resource Recovery Facility is 81% people of color with a per capita income of $28,312; the population within a 5-mile radius of Covanta Stanislaus is 80% people of color with a per capita income of $23,534. According to the City of Long Beach, the nearest resident to the Southeast Resource Recovery Facility is 1.7 miles away.

Should transformation be considered recycling? The IWMA permits jurisdictions to claim waste sent to certain transformation facilities for up to 10% of a jurisdiction's diversion requirement. Jurisdictions claiming the transformation credit must ensure that all recyclable materials are removed from their solid waste before it burns and send the portion of their solid waste claimed as transformation to one of two CalRecycle-permitted active facilities in California. Both of those facilities are incinerators.

Of the state's 419 jurisdictions, 249 claim *some* level of diversion credit (not all claim the full 10 percent) for waste sent to transformation. Thus, opponents of the bill argue that removal of this credit would undermine a jurisdiction's ability to meet the diversion requirements and could potentially subject them to enforcement action by CalRecycle. Of the 249 jurisdictions claiming a credit, four jurisdictions (the cities of Industry, Paramount, Lawndale, and Bellflower) would not have met their diversion requirement without the transformation credit. However, a jurisdiction's failure to achieve the 50% diversion requirement can only result in enforcement action if CalRecycle determines that the jurisdiction did not make a "good faith effort" to implement its waste reduction and recycling programs.

The state has allowed incineration to be counted as recycling since 1989. At that time, recycling was not widely available statewide. In the last three decades, California has developed a robust recycling infrastructure that continues to grow and innovate. Allowing material sent to transformation to count as recycling provides an incentive for jurisdictions to continue to rely on this technology instead of supporting existing recycling systems and investing in cleaner source reduction, recycling, and composting alternatives. This bill would end the diversion credit for solid waste sent to transformation.

Will more solid waste be sent to landfills? Opponents of this bill , such as League of California Cities, Los Angeles Division, argue that without the credit, jurisdictions in Los Angeles County that currently utilize South East Resource

Recovery will have to transport the solid waste to other landfills throughout the state instead of sending to South East Recovery for transformation.

This bill does not prohibit jurisdictions from sending solid waste to incinerators for transformation and may continue to do so; the jurisdiction will not receive a credit for that solid waste to be applied towards their diversion requirements. This bill does not change the requirement that jurisdictions divert 50% of their solid waste away from landfills.

Additionally, opponents argue that, for those jurisdictions that do not rely on the 10% diversion credit to meet diversion requirements, jurisdictions will begin sending more solid waste to landfills because landfills are less expensive than transformation facilities. It is unknown what the disposal rates are of Covanta Stanislaus Inc. and Southeast Resource Recovery and how they compare to nearby landfills.

Impacts to transformation facilities. Opponents of the bill argue that removing the diversion credit will reduce the amount of material that is sent to transformation facilities and jeopardize its vitality, affecting the facilities' workers. This bill does not prohibit or eliminate transformation; it only removes the ability of local jurisdictions to count incineration as recycling.

Opponents also argue that transformation facilities are further affected by the implementation of SB 1383 regulations due to less material going to transformation facilities for incineration and instead will go to the new composting facilities. It is unknown what effect SB 1383 regulations will have on transformation facilities.

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

According to the Senate Appropriations Committee:

- CalRecycle estimates ongoing costs of about $1.2 million in 2022-23 and $1.1 million annually thereafter [IWMA] to administer and oversee the new grant program.

- Unknown but likely significant cost pressure, possibly in the tens of millions of dollars (General Fund, special fund, or bond funds), to provide funding for the new grant program.

- Unknown but likely minor costs for the California Workforce Development Board and the Division of Occupational Safety and Health to consult with CalRecycle as needed.

- To the extent that the Commission on State Mandates determines that this bill establishes a reimbursable mandated local program, unknown costs (General Fund) for the state to provide such reimbursement."

SUPPORT: (Verified 8/24/22)

Californians Against Waste (co-source)
EarthJustice (co-source)
East Yard Communities for Environmental Justice (co-source)
Valley Improvement Projects (co-source)
350 Silicon Valley
350 Southland Legislative Alliance
350 Ventura County Climate Hub
5 Gyres Institute, the
Active San Gabriel Valley
Ban Sup
Biofuelwatch
Breast Cancer Prevention Partners
BRINGiT for A Better Planet
California Democratic Party
California Environmental Justice Coalition
California Environmental Voters
California Health Collaborative
California Interfaith Power & Light
California Public Interest Research Group
Californians Against Waste
Center for Biological Diversity
Center on Race, Poverty, and the Environment
Central California Asthma Collaborative
Central Valley Air Quality Coalition
City of Alameda
Clean Water Action
Coalition for Clean Air
Conejo Climate Coalition
Del Amo Action Committee
Don't Waste Arizona
East Yard Communities for Environmental Justice
Ecology Center
Energy Justice Network
Environmental Justice Coalition for Water
Environmental Working Group

Food Empowerment Project
Friends Committee on Legislation of California
Friends of The Earth
Gaia
Grayson Neighborhood Council
Green Latinos
Greenaction for Health and Environmental Justice
Greenpeace USA
Heal the Bay
Indivisible California Green Team
Institute for Local Self-reliance
International Brotherhood of Teamsters- Solid Waste Division
Just Transition Alliance
Long Beach Alliance for Clean Energy
Long Beach Gray Panthers
Mi Familia Vota
Moore Institute for Plastic Pollution Research
Natural Resources Defense Council
Northern California Recycling Association
Oceana
Pacific Environment
Plastic Oceans International
Plastic Pollution Coalition
San Diego 350
San Fernando Valley Climate Reality Project
Save Our Shores
Save the Albatross Coalition
Seventh Generation Advisors
Sierra Club California
Socal 350 Climate Action
Story of Stuff Project
Surfrider Foundation
The Center for Oceanic Awareness, Research, and Education
The Climate Center
The Last Beach Cleanup
The Last Plastic Straw
The Story of Stuff Project
Tri-valley Communities Against a Radioactive Environment
Upstream
Valley Improvement Projects

West Berkeley Alliance for Clean Air and Safe Jobs
West Oakland Environmental Indicators Project
Wishtoyo Chumash Foundation
Yokuts Group of The Sierra Club
Zero Waste British Columbia
Zero Waste USA

OPPOSITION: (Verified 8/23/22)

City of Bellflower
City of Industry
City of Long Beach
City of Paramount
Covanta Energy Corporation
IBEW Local 11
League of California Cities, Los Angeles County Division
Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force
Solid Waste Association of North America's Legislative Task Force, California Chapters

ARGUMENTS IN SUPPORT: According to the San Fernando Valley Climate Reality Project, "We must acknowledge that a 10% 'waste diversion credit' is not actual diversion if solid waste is simply sent from landfills to incinerators. It is also important to note that the Integrated Waste Management Act (1989) requires CalRecycle to 'maximize' source reduction, recycling, composting and other options to reduce solid waste, but does not provide certification for the term 'maximize'.

"We know that there are long-standing practices of siting waste facilities in low-income communities. As such, it becomes even more essential that we stop playing a numbers game with "diversion" and "maximization", and actually reduce our waste. We cannot expect to achieve true waste reduction or lower greenhouse gas emissions unless we have accountability and real progress toward zero waste.

"Achieving zero waste should be the truest definition of waste management. We strongly encourage the passage of this bill to eliminate Diversion Credits … ."

ARGUMENTS IN OPPOSITION: According to the League of California Cities, Los Angeles County Division, "Approximately 65 jurisdictions in Los Angeles County and the immediate sounding area utilize the SERFF to responsibly dispose of solid waste without having to transport it to landfills throughout California or

other states. By undermining waste-to-energy as a viable alternative to landfilling, AB 1857 would negatively impact air quality in Southern California and the Los Angeles Basin.

“The SERRF is also an environmentally responsible tool for waste management that produces well over 200,000 megawatt hours of electricity per year, representing more than one-quarter of the annual residential electric load for Long Beach. Baseload energy produced at SERRF is sold and becomes part of the regional grid, providing a local renewable energy source.
…

“Finally, we can’t overlook how the SERFF bolsters the local economy by providing dozens of well-paid, union jobs at the facility. Waste-to-energy is a leading technology helping to advance sustainability and union job opportunities.”

ASSEMBLY FLOOR: 52-19, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Kiley, Lackey, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Daly, Gipson, Mathis, Mayes, O'Donnell, Blanca Rubio

Prepared by: Genevieve M. Wong / E.Q. / (916) 651-4108
8/24/22 20:20:55

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1860
Author: Ward (D), et al.
Amended: 8/22/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 9-0, 6/8/22
AYES: Pan, Melendez, Eggman, Gonzalez, Grove, Leyva, Limón, Rubio, Wiener
NO VOTE RECORDED: Hurtado, Roth

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 73-0, 5/23/22 - See last page for vote

SUBJECT: Substance abuse treatment: registration and certification

SOURCE: California Association of Alcohol and Drug Program Executives

DIGEST: This bill exempts specified individuals from being registered with or certified by an approved certifying organization when providing substance use disorder counseling services. This bill requires the Department of Health Care Services to determine core competencies for registered or certified counselors, as specified.

Senate Floor Amendments of 8/22/22 incorporate language from AB 2473 (Nazarian, 2022) to avoid chaptering out issues. The amendments also contain technical, nonsubstantive changes.

ANALYSIS:

Existing law:

1) Grants the Department of Health Care Services (DHCS) sole authority in state government to determine the qualifications, including the appropriate skills, education, training, and experience, of personnel working within alcoholism or

drug abuse recovery and treatment programs under DHCS's purview, as specified, and to approve certifying organizations (COs) that register and certify counselors. [HSC §11833]

2) Requires DHCS to require that an individual providing counseling services, except for licensed professionals as defined by the department, who is working within a specified program be registered with or certified by a DHCS-approved CO. [HSC §11833]

3) Prohibits DHCS from approving a CO that does not, prior to registering or certifying an individual, contact other DHCS-approved COs to determine whether the individual has ever had their registration or certification revoked. Requires a CO to deny the request for registration and to send the counselor a written notice of denial if a counselor's registration or certification has been previously revoked. [HSC §11833]

This bill:

1) Exempts, in addition to licensed professionals in current law, graduate students affiliated with university programs in psychology, social work, marriage and family therapy, or counseling, who are completing their supervised practicum hours to meet postgraduate requirements, and associates registered with the California Board of Behavioral Sciences (BBS), from being registered with or certified by a DHCS-approved CO.

2) Requires a program providing practicum for graduate students exempted from registration to notify DHCS if a graduate student is removed from the practicum as a result of an ethical or professional conduct violation, as determined by either the university or the program.

3) Requires DHCS to report a graduate student who is removed from the practicum due to a specified violation to all DHCS-approved COs, in a manner to be determined by DHCS.

4) Prohibits DHCS from also approving a CO that does not contact other DHCS-approved COs to determine whether an individual has ever been removed from a postgraduate practicum for specified violations, prior to registering or certifying an individual.

5) Requires a CO to also deny a request for registration from an individual who has previously been removed from a postgraduate practicum for specified violations.

6) Requires DHCS to adopt regulations to implement the provisions in this bill by December 31, 2025.

7) Requires DHCS to determine required core competencies for registered or certified substance use disorder (SUD) counselors. Requires DHCS to consult with affected stakeholders in developing the requirements.

8) Requires core competency requirements to align with national certification domains and competency exams. Requires hours completed for the core competency requirements to count toward the education requirements for SUD certification. Prohibits hour requirements for registered counselors from being lower than the hour requirements approved by DHCS for certified peer support specialists.

9) Requires counselors to have six months from the time of registration to complete the core competency requirements and to provide their respective CO proof of completion of the required hours within that timeframe.

10) Prohibits DHCS from implementing the core competency requirements, and from specifying and implementing the hour requirements, before July 1, 2025.

Comments

1) *Author's statement.* According to the author, California is facing a critical shortage of the substance use disorder (SUD) treatment workforce able to handle the increase of individuals needing treatment. Community-based organizations are down 20-30% of their staff, and the inability to recruit and retain a capable workforce impacts the ability to deliver good services. The current SUD counselor registration system is duplicative of requirements for students in their graduate program and discourages students from gaining work experience in SUD programs. This bill will make student participation in SUD programs much easier than it currently is by removing this barrier to do field work or a practicum in a SUD program.

2) *SUD counselor certification.* To meet current counselor requirements, individuals must be registered with or certified by a DHCS-approved CO. In order for a CO to issue certification, individuals must meet requirements established in regulations, which include completion of at least 155 hours of formal classroom education, as defined; have documented completion of at least 160 hours of supervised alcohol or other drug program counseling and 2,080 or more hours of work experience; and received a score of at least 70% on an approved exam. Certification is valid for two years and a counselor is required

to complete 40 hours of continuing education every two years for renewal. Regulations allow for individuals who are registered with a CO to provide counseling services while working toward completion of certification requirements. Regulations also exempt licensed professionals (such as physicians licensed by the Medical Board of California, psychologists licensed by the Board of Psychology, those licensed by or registered as an intern with the BBS or the California Board of Psychology) from certification for providing SUD counseling services at facilities and programs under DHCS's purview.

3) *California's Current and Future Behavioral Health Workforce*. While there has not been a comprehensive assessment solely of the SUD workforce needs, a report issued by the Healthforce Center at the University of California in 2018 entitled "California's Current and Future Behavioral Health Workforce" stated that one in six adults suffers from mental illness and one in fourteen children has a serious emotional disturbance. Despite access to public and private insurance coverage for behavioral health services, many Californians with mental illness or SUD do not receive treatment. To increase the likelihood that better coverage for behavioral health services will yield better access to treatment, California needs an adequate supply of behavioral health workers who are distributed equitably across the state and who reflect the demographic characteristics of the state's population. These workers must also possess the skills and credentials necessary to deliver the type of behavioral health care (e.g., prescribing/medication management, counseling) that people need. Key findings of the report include:

   a) Ratios of behavioral health professionals to population vary substantially across California's regions, with the lowest ratios in the Inland Empire and San Joaquin Valley;

   b) Blacks and Latinos are underrepresented among psychiatrists and psychologists relative to California's population. Latinos are also underrepresented among counselors and clinical social workers;

   c) Forty-five percent of psychiatrists and 37% of psychologists are over age 60 years and are likely to retire or reduce their work hours within the next decade;

   d) Wages vary widely across behavioral health occupations, as do the settings in which people are employed. SUD counselors have the lowest mean annual earnings while psychiatrists have the highest mean annual earnings;

e) California's behavioral health trainees are not distributed evenly across the state. There are no residency programs for psychiatrists and no educational programs for psychiatric mental health nurse practitioners or psychologists north of Sacramento. There are no doctoral programs in psychology in the Central Coast and San Joaquin Valley regions; and,

f) If current trends continue, California will have 41% fewer psychiatrists than needed and 11% fewer psychologists, licensed marriage and family therapists, licensed professional clinical counselors, and licensed clinical social workers than needed by 2028. Additional behavioral health professionals will be needed to care for Californians with unmet needs for behavioral health services.

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

According to the Senate Appropriations Committee, unknown ongoing costs for the Department of Health Care Services, likely hundreds of thousands of dollars, for state operations to ensure compliance.

SUPPORT: (Verified 8/22/22)

California Association of Alcohol and Drug Program Executives (source)
California Alliance of Child and Family Services
California Association of Marriage and Family Therapists
California Association of Social Rehabilitation Agencies
California Behavioral Health Directors Association
California Consortium of Addiction Programs and Professionals
California State Association of Counties
HealthRIGHT 360
National Association of Social Workers California Chapter

OPPOSITION: (Verified 8/22/22)

Department of Finance

ARGUMENTS IN SUPPORT: The California Association of Alcohol and Drug Program Executives, sponsor of this bill, and other supporters who provide and advocate for behavioral health services state that in 2021 the federal Centers for Disease Control and Prevention reported there were over 100,000 overdose deaths in the United States between May 2020 and April 2021. Over 75,000 of those deaths were a result of synthetic opioids/fentanyl, and 10,585 of those overdoses occurred in California. At the same time, California is facing a critical shortage of SUD treatment workforce able to handle the increase of individuals needing

treatment. Current law disincentivizes and discourages qualified marriage and family therapist students and other master-level clinicians completing their required graduate school practicums from working in SUD treatment programs by having to also register with a certifying organization as if they were on the career path to become a certified SUD counselor. They must pay a fee, sign a code of ethics, and take a nine-hour course before they can do their fieldwork in a SUD program. It reduces the available workforce at SUD treatment programs and also prevents the pipeline of marriage and family therapists, professional clinical counselors, and social workers from gaining key experience in treating SUD conditions. As the state strives towards integrated care for co-occurring mental health and SUD conditions, it is critical that the workforce have competencies in care of both conditions. It is imperative that the state support more than just an SUD counselor career path, but also an SUD licensed professional of the healing arts career path.

ARGUMENTS IN OPPOSITION: The Department of Finance is opposed to this bill because it results in General Fund impacts not included in the Administration's spending plan, and does not establish a means to recoup the costs of enforcing its requirements via fees.

ASSEMBLY FLOOR: 73-0, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Mia Bonta, Nguyen, O'Donnell, Blanca Rubio

Prepared by: Reyes Diaz / HEALTH / (916) 651-4111
8/23/22 15:07:57

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

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THIRD READING

Bill No: AB 1881
Author: Santiago (D)
Amended: 8/25/22 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 10-2, 6/20/22
AYES: Roth, Becker, Dodd, Eggman, Hurtado, Leyva, Min, Newman, Ochoa Bogh, Pan
NOES: Melendez, Jones
NO VOTE RECORDED: Archuleta, Bates

SENATE JUDICIARY COMMITTEE: 8-1, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, McGuire, Stern, Wiener
NOES: Jones
NO VOTE RECORDED: Borgeas, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 53-13, 5/25/22 - See last page for vote

SUBJECT: Animal welfare: Dog and Cat Bill of Rights

SOURCE: Social Compassion in Legislation

DIGEST: This bill requires each public animal control agency, shelter, or specified rescue group to provide a notice related to essential needs and care for dogs and cats, establishes penalties for non-compliance, and makes finding and declarations.

Senate Floor Amendments of 8/25/22 delay the implementation of the fine for a violation of the provisions of this bill by one year, until January 1, 2024, and reduce the fine amount from $250 to $150.

ANALYSIS: Existing law requires a public animal control agency or shelter to microchip a cat or dog with current information before releasing a cat or dog to an owner seeking to reclaim the animal, adopt out, sell, or rehome to a new owner. Allows a shelter or rescue group that does not have microchipping capability on location to enter into an agreement with the owner or new owner to present proof, within 30 days, that the cat or dog is microchipped. (FAC §§ 31108.3; 31752.1)

This bill:

1) Requires each public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group to make a copy of the following notice:

   "Dogs and cats deserve to be free from exploitation, cruelty, neglect, and abuse.

   Dogs and cats deserve a life of comfort, free of fear and anxiety.

   Dogs and cats deserve daily mental stimulation and appropriate exercise considering the age and energy level of the dog or cat.

   Dogs and cats deserve nutritious food, sanitary water, and shelter in an appropriate and safe environment.

   Dogs and cats deserve regular and appropriate veterinary care.

   Dogs and cats deserve to be properly identified through tags, microchips, or other humane means.

   Dogs and cats deserve to be spayed and neutered to prevent unwanted litters."

2) Requires the notice to be posted on the facility's website in a clear and conspicuous manner; posted in the facility where it is accessible to public view and; posted on the application for adoption in a clear and conspicuous manner.

3) Beginning January 1, 2024, requires a fine to not be assessed after the first time offense for failure to comply with the notice requirement and each additional violation occurring after 60 days from the first offense is punishable by a fine not to exceed $150.

4) Authorizes the Attorney General, district attorney, or city attorney in whose jurisdiction the violation is alleged to have occurred to bring a civil action to enforce a violation.

5) States that this bill does not create a private right of action for a violation of the posting requirement, as specified, and does not create a crime or penalty other than specified in 3) above.

Background

This bill requires public and private shelters to post a notice on their website, at the physical shelter site in a conspicuous location, or on the adoption application that enumerates certain expectations about pet care and pet ownership responsibility, especially as it pertains to dogs and cats only. The notice is to include statements about the care dogs and cats deserve including, nutritious food, sanitary water, veterinary care, mental stimulation, and that they deserve to be free from exploitation. However, shelters, both private and public, care for and adopt out other animals including rabbits and guinea pigs. This would be the first such requirement for uniform notice requirements for rescue shelters related to animal well-being. The Author and Sponsor note this bill arose out of the COVID-19 pandemic where the acquisition of animals reportedly increased.

The American Society for the Prevention of Cruelty to Animals (ASPCA) noted in a May 2021 press release of a survey conducted by the ASPCA, that one in five households acquired an animal during the pandemic, or estimated to be close to 23 million Americans. However, the study did not delineate how those animals were acquired, (adoption, pet breeder sale, or other retail methods). At the time, the press release also noted, "Despite alarmist headlines tied to regional reports of a surge in owner surrenders, this trend is not currently evident on a national level with many organizations simply seeing a return to pre-pandemic operations and intake." However, the headlines are beginning to transition from empty shelters, to shelters that are once again full.

Animal Welfare Requirements. California has established a variety of animal welfare laws regarding the care and well-being of animals. Recent laws have been implemented to ensure the welfare of animals is maintained in pet stores, by pet dealers and at pet boarding facilities. In addition, California also established the Animal Control Officer Standards Act, which created a voluntary certification program for animal control officers (AB 1125 Cooley, Chapter 622, Statutes of 2019). Multiple bills under consideration by the Legislature this year address animal welfare. AB 1781 (Blanca Rubio) which establishes safe transportation standards for public shelters, AB 1901 (Nazarian) which requires disclosure for purchasers or dog training services, AB 2723 (Holden) specifies microchip registration requirements for shelters as part of the adoption process. The above-mentioned bills, including AB 1881, are applicable to animal shelters specifically, and not private or online animal purchase, with the exception in AB 1901, that would be applicable to both private providers that offer dog training services.

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

SUPPORT: (Verified 8/25/22)

Social Compassion in Legislation (source)
A Passion for Paws - Akita Rescue
Animal Alliance Network
Ashley & Hobie Animal Welfare, Inc.
Bella and Buddies Animal Rescue
Castillo Animal Veterinary Corp.
City of Carpinteria
Compassionate Bay
Direct Action Everywhere
Grassroots Coalition
Los Angeles Alliance for Animals
Multiple Individual Support Letters
Our Honor
The Paw Project
Plant-Based Advocates - Los Gatos
Poison Free Malibu
Project Counterglow
Recycled Love Dog Rescue
Starfish Animal Rescue
Start Rescue
Take Me Home
Women United for Animal Welfare
Numerous individuals

OPPOSITION: (Verified 8/25/22)

Actors and Others for Animals
American Society for the Prevention of Cruelty to Animals
Animal Issues Movement
Animal Outreach of the Mother Lode
Animal Shelter Assistance Program - Santa Barbara
Bakersfield SPCA
Barstow Humane Society
Berkeley-East Bay Humane Society
Best Friends Animal Society
Butte Humane Society
California Animal Welfare Association
Central California SPCA
Chula Vista Animal Care Center

City of Carmel
City of San Bernardino
County of San Diego Animal Services
County of Santa Barbara Animal Services
Desert Hot Springs Animal Care & Control
Escalon Animal Shelter
FieldHaven Feline Center
Forgotten Felines of Sonoma County
Fresno Humane Animal Services
Friends of Colusa County Animal Shelter
Friends of Front Street Animal Shelter
Friends of Madera Animal Shelter
Friends of the Alameda Animal Shelter
Friends of Upland Animal Shelter
Front Street Animal Shelter - City of Sacramento
Halter Project
Haven Humane Society
High Sierra Animal Rescue
Humane Society of Imperial County
Humane Society of Sonoma County
Humane Society of the United States
Humane Society of Truckee Tahoe
Humane Society of Ventura County
Inland Valley Humane Society
Irvine Animal Services
Kern County Animal Services
Lake County Animal Care and Control
Leaps and Bounds Rabbit Rescue, Inc.
Madera County Animal Services
Marin Humane
Newport Beach Animal Shelter
Pasadena Humane Society
Peninsula Humane Society & SPCA
Placer SPCA
Rancho Coastal Humane Society
Ridgecrest Animal Shelter & Care
Rottweiler Rescue of Los Angeles
Sacramento County Animal Care and Regulation
San Diego Humane Society
San Francisco SPCA

San Gabriel Valley Humane Society
Santa Barbara Humane Society
Santa Paula Animal Rescue Center
SEAACA Animal Control
Sonoma County Animal Services
SPCA Monterey County
spcaLA
Tony La Russa's Animal Rescue Foundation
Tulare Animal Services
Tuolumne County Animal Services
Valley Humane Society
Ventura County Animal Services
Yolo County Sheriff's Office

ARGUMENTS IN SUPPORT: Social Compassion in Legislation sponsors this bill and writes, "Animal shelters and adoption agencies are not currently required to inform the potential adopter of the standards of care dogs and cats deserve. To ensure dogs and cats are treated appropriately, potential owners must understand that dogs and cats deserve certain standards of treatment prior to making a commitment to adoption."

A Passion for Paws – Akita Rescue, Ashley & Hobie Animal Welfare, Inc., Animal Alliance Network, Bella and Buddies Animal Rescue, Castillo Animal Veterinary Corp., Compassionate Bay, Direct Action Everywhere, Los Angeles Alliance for Animals, Our Honor, Plant-Based Advocates – Los Gatos, Poison Free Malibu, Project Counterglow, Recycled Love Dog Rescue, Grassroots Coalition, Starfish Animal Rescue, Start Rescue, Take Me Home, and Women United for Animal Welfare write in support and note, "Nearly 1 in 5 Americans have adopted a pet during the pandemic. Pet owners have responsibilities of taking care for their pet that goes beyond just feeding and grooming. Dogs and cats also need to be respected as living beings that have physical, mental, and emotional health needs. Studies cited in the Journal of Medical Ethics have shown that dogs can experience positive emotions as well as other similar empathic responses. Cats also experience their own emotions that need to be supported."

ARGUMENTS IN OPPOSITION: The California Animal Welfare Association and the Humane Society of the United States write in opposition and note, "Our shelters are staffed by trained professionals and dedicated volunteers that work each and every day to help animals in need. They work with adopters to help them select the right pet, provide counseling to help ensure a smooth transition to the new home, and provide ongoing support. When pets are returned to the shelter, it is

usually either because the pet is not the right match, or the adopter experiencing some unexpected financial or housing hardship. People should not be shamed for having to make these difficult decisions."

Opponents state that AB 1881's focus on shelters and rescue groups sends a deliberately judgmental and unsupportive message to, not only the folks working on the front-line, but to struggling families and to the good people of California who choose to provide homeless pets a place in their families. Lastly, the mechanisms for enforcement are a terrible use of local law enforcement resources to even contemplate shelters and rescue organizations being fined for not having this posting up at all times.

ASSEMBLY FLOOR: 53-13, 5/25/22
AYES: Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Carrillo, Cervantes, Chen, Cooper, Cunningham, Daly, Mike Fong, Friedman, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Waldron, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Aguiar-Curry, Bigelow, Cooley, Megan Dahle, Davies, Flora, Gallagher, Kiley, Lackey, Mathis, Smith, Voepel, Ward
NO VOTE RECORDED: Berman, Calderon, Choi, Fong, Gabriel, Gray, Mayes, Nguyen, O'Donnell, Patterson, Seyarto, Villapudua

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
8/26/22 15:36:19

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

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THIRD READING

Bill No: AB 1885
Author: Kalra (D)
Amended: 8/24/22 in Senate
Vote: 27

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 13-0, 6/20/22
AYES: Roth, Melendez, Bates, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Archuleta

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 73-0, 5/25/22 - See last page for vote

SUBJECT: Cannabis and cannabis products: animals: veterinary medicine

SOURCE: Author

DIGEST: This bill authorizes a veterinarian to recommend the use of cannabis on an animal for potential therapeutic effect or health supplementation purposes, as current law only allows a veterinarian to discuss the use of cannabis on an animal. This bill requires the Veterinary Medical Board (VMB or Board) to adopt guidelines for veterinarians to follow when recommending cannabis by January 1, 2024. This bill expands the purpose and intent of the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) to include the control and regulation of cannabis and cannabis products for use in animals, and requires the Department of Cannabis Control (Department) to promulgate regulations for animal product standards by July 1, 2025.

Senate Floor Amendments of 8/24/22 expand control and regulation of cannabis and cannabis products under MAUCRSA to include these products intended for use in animals, revise various definitions under MAUCRSA to include products intended for use in animals, require the Department to promulgate regulations for animal product standards by July 1, 2025, and address chaptering conflicts with SB

1495 (Senate Committee on Business, Professions and Economic Development) in BPC § 4883.

ANALYSIS:

Existing law:

1) Establishes the Board, responsible for licensing and regulating veterinarians, registered veterinary technicians, veterinary assistant substance controlled permit holders, and veterinary premises. (Business and Professions Code (BPC) §§ 4800 et seq.)

2) Requires a veterinarian, each time they initially prescribe, dispense, or furnish a dangerous drug to an animal patient in an outpatient setting, to offer to provide to the client responsible for the animal patient, a consultation, as specified. (BPC § 4829.5)

3) Prohibits a licensee from dispensing or administering cannabis or cannabis products to an animal patient. (BPC § 4884(a))

4) States that, notwithstanding any other law and absent negligence or incompetence, a licensed veterinarian shall not be disciplined by the Board solely for discussing the use of cannabis on an animal for medical purposes. (BPC § 4884(b))

5) Requires the Board on or before January 1, 2020, to adopt guidelines for veterinarians to follow when discussing cannabis within the veterinarian-client-patient relationship and post the guidelines on the Board's website. (BPC § 4884(c))

6) Authorizes the Board to deny, revoke, or suspend a license or registration or assess a fine for:

    a) Accepting, soliciting, or offering any form of remuneration from or to a cannabis licensee if the veterinarian or the veterinarian's immediate family have a financial interest with the cannabis licensee;

    b) Discussing cannabis with a client while the veterinarian is employed by, or has an agreement with, a cannabis license; and

    c) Distributing any form of advertising for cannabis in California. (BPC §§ 4883(p), 4883(q), and 4883(r))

7) Establishes the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) to regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of both medicinal and adult-use cannabis. (BPC §§ 26000 et seq.)

8) Defines "cannabis concentrate" as cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Further clarifies that cannabis concentrate is not considered food or a drug. (BPC § 26001(g))

9) Defines "cannabis product" as cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients. Further clarifies that a cannabis product is not considered food, a drug, or a cosmetic. (BPC § 26001(h); Health and Safety Code (HSC) § 11018.1)

10) Defines "edible cannabis product" as a cannabis product that is intended to be used, in whole or in part, for human consumption, excluding food products, as specified. Further clarifies that an edible cannabis product is not considered food or a drug. (BPC § 26001(u))

11) States that the Department must promulgate regulations governing the licensing of cannabis manufacturers and standards for the manufacturing, packaging, and labeling of all manufactured cannabis products. (BPC § 26130 (a))

12) Defines "livestock" as all animals, poultry, and bees, and aquatic and amphibian species which are raised, kept, or used for profit. It does not include those species which are usually kept as pets, such as dogs, cats, and pet birds. (Food and Agriculture Code (FAC) § 14205)

13) Defines a "processed pet food" as a food for pets that has been prepared by heating, drying, semidrying, canning, or by a method of treatment prescribed by regulation of the department. The term includes, special diet, health foods, supplements, treats and candy for pets, but does not include fresh or frozen pet foods subject to the control of the Department of Food and Agriculture (CDFA) of this state. (HSC § 113025)

14) Defines an "industrial hemp product" or "hemp product" as a finished product containing industrial hemp that meets the following conditions:

    a) Is a cosmetic, food, food additive, dietary supplement, or herb.

b) Is intended for human or animal consumption, and specifies that "animal" does not include livestock or food animals as defined in BPC Section 4825.1.

c) Does not include THC isolate as an ingredient. (HSC § 111920(g)(1))

This bill:

1) Adds recommending cannabis for use with a client while the veterinarian is employed by, or has an agreement with, a cannabis licensee to the list of actions for which the Board may deny, revoke, or suspend a license or registration or assess a fine.

2) Prohibits the Board from disciplining or denying, revoking, or suspending the license of a veterinarian solely for discussing or recommending the use of cannabis on an animal for potential therapeutic effect or health supplementation purposes.

3) Requires the Board by January 1, 2024, to adopt guidelines for veterinarians to follow when recommending cannabis within the veterinarian-client-patient relationship and requires the guidelines to be posted on the VMB website.

4) Expands the purpose of the comprehensive system established by MAUCRSA to include the control and regulation of the cultivation, distribution, transport, storage, manufacturing, processing, and sale of cannabis products intended for use on, or consumption by, animals.

5) Specifies that for the purposes of this bill, "animal" does not include a food animal as defined or livestock, as defined.

6) Specifies that cannabis concentrate and edible cannabis products are not considered processed pet food, as defined.

7) Adds to the definition of "A-license" and "A-licensee" to include a state license or licensee for cannabis or cannabis products that are intended for use on, or consumption by, animals.

8) Adds to the definition of a "cannabis product" and "edible cannabis product" to also include cannabis products intended for use on, or consumption by, an animal.

9) Requires a cannabis product intended for therapeutic effect or health supplementation use on, or for consumption by, an animal, to conform with

any additional relevant standards, including, but not limited to, an alternative standardized concentration, established by DCC through regulations.

10) Requires the Department to promulgate regulations for animal product standards no later than July 1, 2025. Cannabis products shall not be marketed or sold for use on, or consumption by, animals before these regulations for animal standards take effect.

11) Incorporates additional changes to BPC § 4883 proposed by SB 1495 (Senate Committee on Business and Professions to resolve chaptering conflicts with this bill, and specifies the conditions which would cause these additional changes to be enacted.

Background

Veterinarians in California are prohibited from dispensing or prescribing cannabis for animals, but are currently allowed to discuss the use of cannabis products for animals. However, veterinarians in California may not recommend cannabis products, or given recommendations for how a pet owner can safely administer cannabis to their companion animal. In addition, California does not allow cannabis products to be marketed for animals, and all cannabis products are required to be labeled with a warning to keep out of reach of children and animals. According to the author and supporters of this bill, this has led to pet owners in California needing to guess an appropriate dosage for their pet or turning to unreliable sources of information online to find product recommendations.

In California, the Board has established guidelines for veterinarians to follow when discussing cannabis with pet owners. These guidelines state that veterinarians must conduct a physical exam and collect relevant clinical history. Documentation of discussions with pet owners should include the indication and safety of the use of cannabis, including advice about potential risks of medical use of cannabis.

There are no cannabis-derived products approved for use in animals by the Food and Drug Administration (FDA). While the Animal Medicinal Drug Use Clarification Act of 1994 does allow for certain products approved by the FDA for use in humans to be used in animals by veterinarians, only a very small number of cannabis-derived drugs have received FDA approval for treatment of epilepsy, chemotherapy-induced nausea, and cancer or AIDS-related loss of appetite in humans. The vast majority of cannabis-derived products marketed for pets or humans are not FDA-approved.

Cannabis for Use in Animals. With the legalization of human medicinal and adult-use cannabis in California, veterinarians in the state have seen a rise in cases of accidental cannabis intoxication in pets. THC especially is considered toxic to pets, and can cause hyperactivity, excessive drooling, vomiting, gastrointestinal upset, urinary incontinence, seizures, disorientation, and difficulty maintaining balance. In addition, many edible cannabis products may include added ingredients that are dangerous for cats and dogs, such as chocolate and xylitol.

While the FDA does not recognize cannabis, cannabis products, THC, or CBD (whether derived from cannabis or industrial hemp) as a treatment for any illness or conditions in animals, many pet owners have reported benefits to using these products in pets. Pet owners report that cannabis products can help with pain, nausea, loss of appetite, anxiety, and other conditions.

NOTE: See the Senate Business, Professions, and Economic Development Committee analysis for detailed background of this bill.

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

According to the Senate Appropriations Committee, DCC estimates costs of $159,124 in the first year and $126,126 ongoing for one additional staff to research and develop the manufacturing requirements, prepare guidance documents and trainings for licensees, and provide ongoing technical assistance on the new standards. VMB estimates a one-time cost of $8,600 for staff time and workload related to supporting a two-member subcommittee of the VMB's Multidisciplinary Advisory Committee in making recommendations on cannabis guidelines.

SUPPORT: (Verified 8/23/22)

Best Friends Animal Society
California Cannabis Industry Association
California NORML
California Veterinary Medical Association
Good Farmers Great Neighbors
Pet Cannabis Coalition
The Parent Company
VetCBD
Veterinary Medical Board
Women United for Animal Welfare

OPPOSITION: (Verified 8/23/22)

Lovingly & Legally

ARGUMENTS IN SUPPORT: The Veterinary Medical Board writes in support and notes, "Although the Board appreciates the stakeholder concerns with allowing pet owners, without any veterinarian consultation, let alone a recommendation, to purchase cannabis for use on animals at adult-use retailers, and the Board wishes animal cannabis research funding could be obtained, the Board took a support position on AB 1885. Pet owners are increasingly purchasing cannabis products for their pets to treat a variety of ailments. While veterinarians currently are allowed to discuss with pet owners the use of cannabis on an animal for medicinal purposes, veterinarians are not authorized to make any recommendations for the appropriate use and safe dosage for the pet. This leads to pet owners either guessing appropriate dosages to treat their pet's medical conditions or seeking product recommendations from cannabis dispensary clerks, who likely are not educated or trained in the use of cannabis on animal patients.

"By allowing veterinarians to recommend animal cannabis products for potential therapeutic purposes, AB 1885 provides a safer environment for pet owners to make well-informed decisions for their pets."

Supporters note that it will be important for veterinarians to not only be allowed to discuss cannabis administration to animals with clients, but also to recommend safe practices for cannabis administration to animals. In addition, supporters assert that it will be important for cannabis products intended for use in animals to be included in the MAUCRSA regulatory framework to ensure safe and effective cannabis products for pets.

ARGUMENTS IN OPPOSITION: Lovingly & Legally writes in opposition and notes, "The bill prevents the Veterinary Medical Board from disciplining a veterinarian for recommending cannabis. The recommendation that's laid out in AB-1885 does not carry any weight upon entering a medical only cannabis dispensary. In other words, it doesn't give parity with medical doctors and simply makes the veterinarian a passive salesperson for the products that will flood the cannabis marketplace.

"Numerous products will enter the marketplace with our recommended amendments but if the marketplace were the only thing to be considered, this bill (as currently written) would be a good thing. However, the health and well-being of the animals should be the prime concern. Veterinarians have been hoping for this ability to respond to their clients and recommend for so long that they're willing to take anything so they can speak to their clients about the effective use of cannabis as medicine. While AB-1885 is better than nothing, as written currently, it is a dangerous introduction due to the lack of safety concerns."

ASSEMBLY FLOOR: 73-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Friedman, Kiley, O'Donnell, Patterson

Prepared by: Elissa Silva / B., P. & E.D. / , Hannah Frye / B., P. & E.D. / 8/26/22 15:36:20

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

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THIRD READING

Bill No: AB 1886
Author: Cooper (D)
Amended: 8/24/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-0, 6/8/22
AYES: Cortese, Durazo, Laird, Newman
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 67-9, 5/25/22 - See last page for vote

SUBJECT: Public works: definition

SOURCE: International Union of Operating Engineers, CAL-NEVADA Conference

DIGEST: This bill expands the definition of "public works," for the purpose of the payment of prevailing wages, to also include street sweeping maintenance performed for the routine cleaning of any publicly owned or publicly operated street, road, or highway done under contract and paid for in whole or in part out of public funds.

Senate Floor Amendments of 8/24/22 (1) clarify that the expansion applies to street sweeping performed for routine cleaning of streets, roads or highways in which the area swept is primarily used for vehicle travel; and (2) add double-jointing language to avoid chaptering out issues between this bill and AB 1717 (Aguiar-Curry).

ANALYSIS:

Existing law:

1) Requires that not less than the general prevailing rate of per diem wages be paid to all workers employed on a "public works" project costing over $1,000 and

imposes misdemeanor penalties for violation of this requirement. (Labor Code §1771)

2) Defines "public work" to include, among other things, construction, alteration, demolition, installation or repair work done under contract and paid for in whole or in part out of public funds, including contracts for maintenance work, as specified in state regulations. (Labor Code §1720(a) & §1771)

3) Defines “paid for in whole or in part out of public funds” as, among other things, “Fees, costs, rents, insurance or bond premiums, loans, interest rates, or other obligations normally required in the execution of a contract that are paid, reduced, charged at less than fair market value, waived or forgiven.” (Labor Code §1720(b))

4) Requires that the applicable general prevailing rate of per diem wages be determined by the Director of the Department of Industrial Relations (DIR) for each locality in which the public work is to be performed and for each craft, classification, or type of worker needed to execute the public works project. (Labor Code §1773)

5) Provides that private residential projects built on private property are not subject to the requirements of public works provisions, unless the projects are built pursuant to an agreement with a state agency, redevelopment agency, or local public housing authority. (Labor Code §1720(c)(1))

6) Authorizes the Labor Commissioner, or their designee, to issue civil wage and penalty assessments on a contractor or subcontractor, or both, that fails to pay prevailing wages in connection with a public work. (Labor Code §1741)

This bill:

1) Expands the definition of “public works,” imposing the payment of prevailing wage requirements, to also include street sweeping maintenance performed for the routine cleaning of any publicly owned or publicly operated street, road, or highway done under contract and paid for in whole or in part out of public funds.

2) Defines “street sweeping” to mean the sweeping of streets, roads, or highways in which the area being swept is primarily used for vehicle travel.

3) Includes provisions double-jointing this bill with AB 1717 (Aguiar-Curry), which applies prevailing wage requirements on fire mitigation work, in order to avoid chaptering out issues.

Background

"Public Works" and Prevailing Wage

Existing law requires that not less than the general prevailing wage rate of per diem wages, as determined by the director of the DIR, be paid to all workers employed on a "public works" projects. The prevailing wage rate is the basic hourly rate paid on public works projects to a majority of workers engaged in a particular craft, classification or type of work within the locality and in the nearest labor market area. The determination of whether a project is deemed a "public work" is important because the Labor Code requires (except for projects of $1,000 or less) that the prevailing wage be paid to all workers employed on public works projects. Prevailing wage creates a level playing field by requiring an across-the-board rate for all bidders on publically subsidized projects.

In general, "public works" is defined to include construction, alteration, demolition, installation or repair work done under contract and "paid for in whole or in part out of public funds." Almost 20 years ago, there was much administrative and legislative action over what constituted the term "paid for in whole or in part out of public funds." These debates culminated in the enactment of SB 975 (Alarcón, Chapter 938, Statutes of 2001), which codified a definition of "paid for in whole or in part out of public funds" as well as exempted certain affordable housing, residential and private development projects, as specified. Currently, "paid for in whole or in part out of public funds" is defined as, among other things, "fees, costs, rents, insurance or bond premiums, loans, interest rates, or other obligations normally required in the execution of a contract that are paid, reduced, charged at less than fair market value, waived or forgiven."

Recent DIR Determinations Regarding Street Sweeping

Existing Labor Code Section 1773.5 authorizes the Director of DIR to establish rules and regulations for carrying out the requirements of the labor code, including the issuance of determinations on whether a specific project or type of work awarded or undertaken by a political subdivision is considered a public work, important for purposes of prevailing wage requirements.

As noted above, "public works" is defined as including construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds. Further, Labor Code Section 1771 specifies that the payment of prevailing wage on public works "is applicable to contracts let for maintenance work." State regulations expand upon the definition of public works maintenance to provide that maintenance is "routine, recurring, and usual work for

the preservation, protection and keeping of any publicly owned or publicly operated facility" (Cal. Code of Regulations, Title 8, §16000).

Recently there has been confusion among awarding bodies, contractors, and labor entities regarding whether public street sweeping constitutes "maintenance" under the state's prevailing wage laws. Various prior DIR determinations have found that street sweeping is in fact considered a public works maintenance project, and thus requires the payment of prevailing wage. In an October 2021 determination, the Director of DIR (DIR Public Works Case No. 2020-005) found that street sweeping is a routine and recurring work that keeps public streets and facilities in a safe and continually usable condition for public use, and therefore is subject to prevailing wage requirements.[1] This bill codifies this determination.

Comments

Need for this bill? According to the author, "Street sweeping is a critical public safety and road maintenance task that involves the clearing of debris from public streets and roadways. Street sweeping maintenance ensures that our roads and drains are clear of a variety of materials that accumulate in our public streets, including but not limited to: Sand, gravel, glass, bottles, cans, leaves, silt, mud, litter, trash, small tree limbs, palm fronds and other debris. In an effort to bring clarity to awarding bodies, contractors, and labor organizations, AB 1886 codifies the DIR recent prevailing wage determination to ensure that street sweeping maintenance services are included in the definition of "public works" and thus require the payment of prevailing wage."

Related/Prior Legislation

AB 1717 (Aguiar-Curry, 2022) expands the definition of public works to include fuel reduction work done under contract and paid for in whole or in part out of public funds performed as part of a fire mitigation project, as specified.

AB 1851 (R. Rivas, 2022) expands the definition of public works for the purpose of the payment of prevailing wages to include the on-hauling of materials used for paving, grading, and fill onto a public works site.

AB 2231 (Kalra, Chapter 346, Statutes of 2020) defined a public subsidy as de minimis for the purpose of paying the prevailing wage in private projects if it is both less than $600,000 and less than 2% of the total project cost for bids advertised or contracts awarded after July 1, 2021. If the subsidy is for a

[1] Department of Industrial Relations. *Public Works Case No. 2020-005 Street Sweeping Maintenance Services City of Elk Grove.* October 4, 2021.

residential project consisting entirely of single family dwellings, the subsidy is de minimis so long as it is less than 2 % of the total project cost.

AB 1066 (Aguiar-Curry, Chapter 616, Statutes of 2017) expanded the meaning of the term "public works" to include specific types of tree removal work.

AB 26 (Bonilla, Chapter 864, Statutes of 2014) expanded the definition of "public works" to include work performed during the design and preconstruction phases of construction, including, but not limited to, inspection and land surveying work, and work performed during the post-construction phases of construction, including, but not limited to, all cleanup work at the jobsite.

AB 514 (Roger Hernández, Chapter 676, Statutes of 2011) expanded the definition of "public works" to include the hauling of refuse, as defined, from a public works site to an outside disposal location.

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

SUPPORT: (Verified 8/25/22)

International Union of Operating Engineers, CAL-NEVADA Conference (source)
California Conference of Carpenters
California Labor Federation, AFL-CIO
California State Association of Electrical Workers
California State Pipe Trades Council
California Teamsters Public Affairs Council
Engineering & Utility Contractors Association
International Union of Operating Engineers, Local 12
Southern California Contractors Association
State Building & Construction Trades Council of California
United Contractors
Western States Council Sheet Metal, Air, Rail and Transportation

OPPOSITION: (Verified 8/25/22)

None received

ARGUMENTS IN SUPPORT: According to the sponsor, the International Union of Operating Engineers, CAL-NEVADA, and proponents, "Recently there has been confusion among awarding bodies, contractors, and labor entities regarding whether public street sweeping constitutes "maintenance" under the states prevailing wage laws. Various prior coverage determinations have found that street sweeping is in fact considered a public works maintenance project, and thus

requires the payment of prevailing wage. Most recently, DIR Public Works Case No. 2020-005 found that street sweeping is a routine and recurring work that keeps public streets and facilities in a safe and continually usable condition for public use, and therefore is subject to prevailing wage requirements. Various other cases over the years have found that street sweeping falls under the definition of maintenance."

Proponents conclude by stating that, "AB 1886 is needed to ensure that street sweeping maintenance is clearly designated as a public work and thus entitled to the payment of prevailing wage. This change will provide clarity for awarding entities, contractors and labor compliance groups who regularly ask for clarification on this issue from the Department of Industrial Relations."

ASSEMBLY FLOOR: 67-9, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Choi, Fong, Kiley, Nguyen, Patterson, Seyarto, Smith, Voepel
NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
8/26/22 15:41:14

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

SENATE RULES COMMITTEE AB 1894
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THIRD READING

Bill No: AB 1894
Author: Luz Rivas (D) and Petrie-Norris (D), et al.
Amended: 8/24/22 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 14-0, 6/27/22
AYES: Roth, Melendez, Archuleta, Bates, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 5/25/22 - See last page for vote

SUBJECT: Integrated cannabis vaporizer: packaging, labeling, advertisement, and marketing

SOURCE: California NORML
National Stewardship Action Council

DIGEST: This bill prohibits, commencing July 1, 2024, cannabis cartridges and integrated cannabis vaporizers packages from implying the product is disposable and adds advertisement and marketing requirements.

Senate Floor Amendments of 8/24/22 revise the required text on all advertisements and marketing material and clarify the definition of "authorized facility".

Senate Floor Amendments of 8/16/22 address chaptering conflicts with AB 1646 (Chen) and add "empty" to the required language on all cannabis cartridges advertisements.

ANALYSIS:

Existing law:

1) Establishes the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) to regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of both medicinal cannabis and adult-use cannabis. (Business and Professions Code (BPC) § 26000)

2) Prohibits a cannabis licensee from including on the label of any cannabis or cannabis product or publishing or disseminating advertising or marketing containing any health-related statement that is untrue in any particular manner or tends to create a misleading impression as to the effects on health of cannabis consumption. (BPC § 26154)

3) Requires the State Controller, after tax collected for purposes of administrative functions, must disburse the sum of ten million dollars to a public university or universities in California annually until the 2028–29 fiscal year to research and evaluate the implementation and effect of the Control, Regulate and Tax Adult Use of Marijuana Act, and shall, if appropriate, make recommendations to the Legislature and Governor regarding possible amendments to the Control, Regulate and Tax Adult Use of Marijuana Act. Requires the recipients of these funds shall publish reports on their findings at a minimum of every two years and shall make the reports available to the public. States the Department of Cannabis Control (DCC) shall select the universities to be funded. (Revenue and Taxation Code (RTC) § 34019(b))

4) Requires that all advertisements and marketing accurately and legibly identify the licensee responsible for its content, by adding, at a minimum, the licensee's license number, and prohibits an outdoor advertising company from displaying an advertisement by a licensee unless the advertisement displays the license number. (BPC § 26151)

5) Prohibits a cannabis licensee from doing any of the following:

    a) Advertising or marketing in a manner that is false or untrue in any material particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific, or technical matter, tends to create a misleading impression.

    b) Publishing or disseminating advertising or marketing containing any statement concerning a brand or product that is inconsistent with any statement on its labeling.

c) Publishing or disseminating advertising or marketing containing any statement, design, device, or representation which tends to create the impression that the cannabis originated in a particular place or region, unless the label of the advertised product bears an appellation of origin, and such appellation of origin appears in the advertisement.

d) Advertising or marketing on a billboard or similar advertising device located on an Interstate Highway or on a State Highway which crosses the California border.

e) Advertising or marketing cannabis or cannabis products in a manner intended to encourage persons under 21 years of age to consume cannabis or cannabis products.

f) Publishing or disseminating advertising or marketing that is attractive to children.

g) Advertising or marketing cannabis or cannabis products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 to 12, inclusive, playground, or youth center.

h) Publishing or disseminating advertising or marketing while the licensee's license is suspended. (BPC § 26152)

6) Provides the following restrictions on advertising and marketing placed in broadcast, cable, radio, print, and digital communications:

a) Must be displayed after a licensee has obtained reliable up-to-date audience composition data demonstrating that at least 71.6 percent of the audience viewing the advertising or marketing is reasonably expected to be 21 years of age or older;

b) Must not use any depictions or images of minors or anyone under 21 years of age;

c) Must not contain the use of objects, such as toys, inflatables, movie characters, cartoon characters, or include any other display, depiction, or image designed in any manner likely to be appealing to minors or anyone under 21 years of age; and

d) Must not advertise free cannabis goods giveaways of any type of products, including non-cannabis products. (California Code of Regulations (CCR) § 15040)

7) Establishes the Rechargeable Battery Recycling Act, which requires every retailer to have a system in place, on or before July 1, 2006, for the acceptance and collection of used rechargeable batteries for reuse, recycling, or proper disposal. (Public Resources Code (PRC) §§42451-42456)

This bill:

1) Prohibits cannabis cartridge and integrated cannabis vaporizer packaging and labels from indicating these products are disposable or implying the product may be thrown in the trash or recycling streams.

2) Adds the following advertising and marketing requirements:

   a) Integrated cannabis vaporizer advertisements must clearly and legibly state: "*An empty integrated cannabis vaporizer shall be properly disposed of as hazardous waste at a state permitted household hazardous waste collection facility or other approved facility*".

   b) Cannabis cartridge advertisements must clearly and legibly state: "*A spent integrated cannabis vaporizer shall be properly disposed of as hazardous waste at a state permitted household hazardous waste collection facility or other approved facility."*

   c) Cannabis cartridge and an integrated cannabis vaporize cannot indicate that a cannabis cartridge or an integrated cannabis vaporizer is disposable nor imply that it may be thrown in the trash or recycling streams.

3) Defines an authorized facility as facility authorized under the hazardous waste control laws Chapter 6.5 of Division 20 of the Health and Safety Code.

4) Provides a July 1, 2024 implementation date.

5) Addresses chaptering issues with AB 1646 (Chen).

Background

Current labeling and cannabis education efforts. The DCC issued emergency regulations to implement consolidation efforts. As a part of the regulatory process, the DCC must propose permanent regulations. The DCC released proposed regulations to make the emergency consolidated regulations permanent on March 4, 2022, and anticipate them to be effective by fall 2022 to further define labeling requirements. The regulations are substantially similar, but contain some amendments.

In addition to cannabis specific requirements, the California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) is currently working with cannabis licensees to ensure packaging is consistent with Proposition 65 which requires the listing of any potential cancer causing substance.

The DCC currently oversees two public awareness campaigns ("This is California Cannabis" and "#weedwise") aimed to educate on the legal market and specifically, "educate consumers about buying from licensed retailers, encourage unlicensed businesses to get licensed, and promote California's legal cultivation market." DCC is not currently doing any outreach or campaigns on recycling of cannabis vape products. The California Department of Resources Recycling and Recovery (CalRecycle) has limited information on its website educating consumers about lithium battery recycling and does not have a public campaign about battery recycling, including cannabis vape products.

Cannabis advertising requirements. Cannabis licensees have strict advertising and marketing rules they must follow, particularly when it comes to situations involving children. Licensees may not advertise or market cannabis or cannabis products in a manner intended to encourage persons under 21 years of age to consume cannabis or cannabis products; publish or disseminate advertising or marketing that is attractive to children; advertise or market cannabis or cannabis products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 to 12, inclusive, playground, or youth center.

The proposed regulations referenced above also seek to make advertisement regulations permanent with additional changes. Once finalized, proposed regulations will require advertisements placed in broadcast, cable, radio, print, and digital communications may be displayed only after a licensee has obtained reliable up-to-date audience composition data demonstrating that at least 71.6 percent of the audience viewing the advertising or marketing is reasonably expected to be 21 years of age or older. These advertisements also cannot show images of minors, images that are attractive to children such as cartoons, phrases that are popularly used to advertise to children, imitation of candy packaging or reference candy and/or any variants of the word candy. This bill adds environmental safety to existing requirements.

Recycling hazardous batteries. Integrated Cannabis Vaporizers are also known as single-use vapes and are increasing in popularity. The majority of cannabis vaping products are cartridges that are inserted into reusable vaporizers or vape pens.

However, approximately 10 percent of vaping products are vaporizers that combine both the cannabis product and a built-in electronic device that creates the aerosol or vapor, essentially constituting a single-use, all-in-one product. The batteries used in the cartridges and the single-use vapes are considered hazardous waste because they highly flammable. Under current law, it is illegal to dispose of hazardous waste in the garbage, down storm drains, or onto the ground. Most portable electronic devices use rechargeable batteries, and millions of rechargeable batteries are sold in California each year.

Current law requires retailers to have a mechanism to accept all rechargeable batteries for recycling and only applies to large chain supermarkets, which does not encompass cannabis retailers. Additionally, sales of rechargeable batteries that are contained in, or packaged with, a battery-operated device are not subject to this law. There is no laws specially addressing cannabis products. In fact, most laws pertaining to battery recycling specifically exempt equivalent tobacco products such as e-cigarettes. This bill only speaks to single-use vapes and does not speak to cartridges which also use similar hazardous waste batteries and are more widely used.

Current state programs do not collect single-use batteries and lithium-ion battery embedded products that are not cell phones. Call2Recycle's program, which collects rechargeable batteries, cell phones, and single-use batteries, allows consumers to drop off their used batteries at collection sites at no cost. However, the program is voluntary, making the availability of collection sites dependent on the willingness of an entity to operate a collection site. For instance, according to Call2Recycle's website, the closest collection site for single-use batteries to the California State Capitol is in Roseville, and the second closest location is in Stockton. In Los Angeles and Chico, there are not any collection sites for single-use batteries within 50 miles of those cities; in comparison to San Francisco which has an abundance of collection sites for single-use batteries. It is unclear how labeling single-use vapes to dispose properly will educate consumers how or where to properly dispose.

Currently, there are two measures moving through the legislature establishing a battery recycling program, SB 1215 (Newman, 2022) and AB 2440 (Irwin, 2022). The Senate Environmental Quality Committee analysis for AB 2440 notes that there are laws requiring rechargeable batteries to be collected; however, recent information suggests that collection efforts are not succeeding. The hazardous waste batteries are ending up in the solid waste stream where they can be damaged or crushed, which can result in fires in solid waste trucks and solid waste facilities.

According to the author's office and the sponsor, this bill is intended to be complimentary to these two bills which is the rationale provided for the vagueness of language in this bill.

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

SUPPORT: (Verified 8/23/22)

California NORML (co-source)
National Stewardship Action Council (co-source)
California Cannabis Industry Association
California Society of Addiction Medicine
Republic Services - Western Region
STIIIZY
The Parent Company

OPPOSITION: (Verified 8/23/22)

None received

ARGUMENTS IN SUPPORT: California NORML writes, "Vaporizers are a valuable harm-reduction tool for users wishing to avoid hazardous respiratory toxins in cannabis smoke. However, integrated vaporizers as defined in BPC 26122 have electronic components such as batteries that can be hazardous if not properly disposed of. For the sake of public safety and the environment, it's important for cannabis consumers to understand that this is the case."

According to the National Stewardship Action Council, "Vaping devices have become an increasingly popular method of consuming cannabis. Powered by a battery, these electronics are considered hazardous waste in California and banned from disposal in the trash or recycling. However, many brands instruct consumers to simply throw them away, which results in vapes being improperly disposed of in our materials management system where they have the potential to cause explosions and fires that can endanger people, expensive infrastructure, and the environment. These fires have become more commonplace in the industry, and operators are at risk of losing their insurance coverage.

"California has become a leader in advocating for "truth in labeling" by requiring brands to truthfully label their products and packaging for proper disposal or recycling. Manufacturers of products with lithium-ion batteries, such as cannabis vaping devices, can help by ensuring that they are not promoting or implying their products belong in the trash, which could result in fires. Consumers deserve the

ability to make informed purchasing decisions and have accurate information for end-of-life disposal."

ASSEMBLY FLOOR: 76-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Alexandria Smith Davis / B., P. & E.D. /
8/26/22 15:41:15

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

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THIRD READING

Bill No: AB 1896
Author: Quirk (D)
Amended: 8/24/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 9-0, 6/22/22
AYES: Pan, Melendez, Eggman, Gonzalez, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Grove, Hurtado

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 75-1, 5/25/22 - See last page for vote

SUBJECT: Gamete banks

SOURCE: Author

DIGEST: This bill requires gamete banks to provide specified information to individuals obtaining donor gametes in order to conceive children, including the limitations of donor screening, and that some donor-conceived persons are or may be interested in contact with the donor whose gametes were used for their conception. In addition, this bill requires gamete banks to provide specified information to prospective gamete donors, including information regarding the potential of direct-to-consumer genetic testing to reveal the relatedness of the donor to children conceived with the donor's gametes, even if the donor has chosen not to reveal their identity. This bill requires the California Department of Public Health (CDPH) to develop the guidance to be provided in consultation with specified stakeholders and to post that guidance on their website. This bill requires CDPH to develop a tiered penalty system to be used prior to suspending or revoking the license of a gamete bank for a violation of these provisions.

Senate Floor Amendments of 8/24/22 are largely technical language changes regarding the disclosure of information to gamete donors, donor-conceived persons, and intended parents. The key substantive changes are that gamete banks

will not be required to disclose the required information verbally to intended parent, but still do so in writing, and CDPH will be required to develop a tiered penalty system for gamete banks that violate the provisions of this bill prior to suspending or revoking a gamete bank's license. Some of the information required to be disclosed to gamete donors and intended parents has been modified for a more neutral tone.

ANALYSIS:

Existing federal law:

1) Establishes procedures to prevent the introduction, transmission, and spread of communicable diseases by human cells, tissues, and cellular and tissue-based products (HCT/Ps), including semen or other reproductive tissue through regulation by the Food and Drug Administration (FDA). Requires, before the completion of a donor-eligibility determination screening of a donor's medical records for specified risk factors for, and clinical evidence of, relevant communicable disease agents and diseases; quarantining semen from anonymous donors for at least six months after the date of donation; and retesting of anonymous semen donors by collecting a new specimen from the donor and testing it for evidence of infection due to human immunodeficiency virus (HIV), agents of viral hepatitis (HBV and HCV), syphilis, and human T lymphotropic virus (HTLV). [21 C.C.R.§1271.1, et seq.]

2) Establishes the Health Insurance Portability and Accountability Act of 1996 (HIPAA) which sets standards for privacy of individually identifiable health information and security standards for the protection of electronic protected health information, including, through regulations, known as the Privacy Rule, that a HIPAA covered entity may not condition the provision of treatment, payment, enrollment in the health plan, or eligibility for benefits on the provision of an authorization, except under specified circumstances. Provides that if HIPAA's provisions conflict with state law, the provision that is most protective of patient privacy prevails. [42 U.S.C. §300gg, 29 U.S.C. §1181, et seq., and 42 U.S.C. §1320d, et seq.]

Existing state law:

1) Requires every tissue bank operating in California to have a current and valid tissue bank license issued or renewed by CDPH, except as specified. Authorizes CDPH to revoke or suspend the license of any tissue bank that violates licensing standards pertaining to tissue banks. [HSC §1635.1, §1639.2, §1639.3]

2) Defines "tissue bank" to mean a place, establishment, or institution that collects, processes, stores, or distributes tissue for transplantation into human beings. Defines "gamete bank" to mean a tissue bank that collects processes, or distributes gametes, including a facility that provides professional reproductive services, other than those facilities exempt from tissue bank licensure. [HSC §1635]

3) Requires gamete banks licensed in this state to comply with the following requirements for gametes collected after January 1, 2020, except when the donor's identity is known to the recipients of the gametes at the time of donation:

   a) Requires gamete banks to collect and retain from a gamete donor the donor's identifying information and medical information at the time of the donation. Requires a gamete bank that receives gametes from a donor collected by another gamete bank to collect and retain the name, address, telephone number, and email address of the gamete bank from which the gametes were received. [HSC §1644.1]

   b) Requires gamete banks to provide the donor with information in a record about the donor's choice regarding identity disclosure. Requires gamete banks to obtain a declaration from the donor regarding whether or not the donor agrees to disclose the donor's identity to a child conceived by assisted reproduction with the donor's gametes, on request, once the child attains 18 years of age. Requires gamete banks to permit a donor who has signed a declaration that the donor does not agree to disclose the donor's identity to withdraw the declaration at any time by signing a declaration that the donor agrees to disclose the donor's identity. Permits gamete banks to not collect gametes from donors who do not agree to disclose their identity. Requires the gamete bank to maintain identifying information and medical information about each gamete donor, maintain records of gamete screening and testing, and comply with state and federal reporting requirements. [HSC §1644.2]

   c) Requires gamete banks to, upon request of a child conceived by assisted reproduction using donor gametes who attains 18 years of age, provide the child with identifying information of the donor who provided the gametes, unless the donor signed a declaration that the donor does not agree to disclose their identity. Requires the gamete bank to make a good faith effort to notify the donor if the donor signed and did not withdraw the declaration, so that the donor may elect to withdraw the declaration and agree to release

the their information. Requires the gamete bank to provide a child conceived using donor gametes who attains 18 years of age, or, if the child is a minor, by a parent or guardian of the child, access to nonidentifying medical information provided by the donor. Requires a gamete bank that received gametes from another bank used in the assisted reproduction of a child to disclose the name, address, telephone number, and email address of the gamete bank from which the gametes were received upon the request of that child who has attained 18 years of age. [HSC §1644.3]

4) Defines "identifying information" as the full name of the donor, the donor's date of birth, and the permanent address or other contact information, or both, given at the time of donation, or, if different, the current address or other contact information, or both, of the donor retained by the gamete bank. [HSC §1644]

5) Prohibits, under the state Confidentiality of Medical Information Act, a provider of health care, a health plan, a contractor, a corporation and its subsidiaries and affiliates, or any business that offers software or hardware to consumers, from intentionally sharing, selling, using for marketing, or otherwise using any medical information, as defined, for any purpose not necessary to provide health care services to a patient, except as expressly authorized by the patient, enrollee, or subscriber, or as otherwise required or authorized by law. States that a violation of these provisions that results in economic loss or personal injury to a patient is a crime.

This bill:

1) Requires a gamete bank to provide information on the following topics to individuals obtaining donor gametes in order to conceive a child starting January 1, 2024:

   a) That telling a donor-conceived child at an early age, in an age-appropriate manner, that the child is donor-conceived is associated with improved family functioning and well-being of the donor-conceived child;

   b) The ability of and tools available to a donor-conceived person (DCP) to learn the identity of the donor whose gametes were used in their conception and the importance of understanding that many, but not all, DCPs have a strong desire to know the identity of the donor and of other DCPs born using the same donor's gametes;

c) That the personal medical and family history of the gamete donor may influence some health conditions and inform medical care for DCPs and their children;

d) The limitations of donor screening, including screening for genetic diseases and genetic disease risk factors;

e) The possibility of one or more disease genes or genetic disease risk factors to be inherited by a DCP from a gamete donor;

f) That some DCPs may be interested in contact with their gamete donor or other persons born from the same donor's gametes;

g) The ability of a limit on the number of families that can be established with an individual donor's gametes, to improve the well-being of DCPs and gamete donors and to further the ability of DCPs to establish contact with their gamete donor, as well as other persons born using the same donor's gametes;

h) Whether or not the gamete bank attempts to meet a limit on the number of persons that can be born or the number of families that can be established with an individual donor's gametes. Requires, if the gamete bank has a policy or limit, to additionally disclose them; and,

i) Whether or not the gamete bank requests medical history updates from the donor and provides these updates to DCPs. If the gamete bank has such a policy, requires that policy to be disclosed.

2) Requires a gamete bank to provide information on the following topics verbally and in writing to individuals donating gametes in the state prior to the donation of gametes by a donor on the following topics, starting January 1, 2024:

a) The potential emotional and social impacts of donating gametes;

b) That it is important to many DCPs to know the identity of the donor whose gametes were used in their conception and that some DCPs may be interested in contact with the donor or other persons born using the same donor's gametes;

c) What information will be disclosed to intended parents and the potential of direct-to-consumer testing to reveal the identity of the donor and other persons born using the same donor's gametes even if the donor has chosen not to disclose their identity;

d) The potential for the birth of one or more children in multiple families using the donor's gametes;

e) Whether or not the gamete bank attempts to meet a limit on the number of persons that can be born or the number of families that can be established with an individual donor's gametes. Requires, if the gamete bank has a policy or limit, to additionally disclose them; and,

f) Whether or not the gamete bank requests medical history updates from the donor and provides these updates to DCPs. If the gamete bank has such a policy, requires that policy to be disclosed.

3) Requires CDPH to consult with experts and stakeholders, including organizations of DCPs demonstrably involved in the representation of other DCPs, organizations representing gay,lesbian, bisexual and transgender persons and families, organizations representing gamete donors or individuals with prior experience as gamete donors, licensed mental health professionals with prior documented experience counseling intended parents and DCPs, genetic counselors, licensed medial geneticists, licensed physicians with experience in third-party assisted reproduction, and representatives of gamete bank operating in the state, and to develop information and guidance required in 1) and 2) above, except the statement on whether the gamete bank places a limit on the number of persons that can be born or families that can be established established with an individual donor's gametes, and the statement on whether the gamete bank requests medical history updates from donors.

4) Requires CDPH to provide the information and guidance developed in 3) on its website.

5) Requires CDPH to establish a tiered penalty system allowing the gamete banks to cure violations of the above requirements prior to suspending or revoking the license of a gamete bank.

6) Prohibits this bill as being construed to require a physician to perform reporting, tracking, or mitigation of the risks outlined in 1) and 2), including, but not limited to, tracking gamete donors, reporting gamete donor usage, or determining if a child was born with a donor's gametes.

7) Makes legislative findings regarding the need to consider the health and welfare of gamete donors, intended parents, and DCPs; the medical and family history of a gamete donor can impact the medical care of DCPs and their children; the interest many DCPs place in knowing the identity of their gamete donor and

meeting their gamete donor or other DCPs conceived with the same donor's gametes; the psychosocial harm that can occur upon discovery of a large number of persons born using the same donor's gametes. Makes additional findings that early disclosure of donor conceptions is beneficial to DCPs; people considering using donated gametes should have access to resources about DCPs; access to direct-to-consumer genetic testing makes donor identification and the identification of other DCPs using the same gametes possible; gamete donors may experience psychosocial harm upon the discovery of a number of DCPs born as a result of their gametes; and donors should have access to information about the interests of DCPs and information that may be shared with intended parents and DCPs.

Comments

1) *Author's statement.* According to the author, for too long, discussions around assistive reproductive technologies have left out those who have the least say in the matter, but are most impacted: DCPs. A lack of regulation and data collection has meant that sperm banks are using donations to produce many dozens, at times upward of 100, children. When DCPs discover they have an unknown number of half-siblings, often through genetic tests like 23andMe, they report facing significant psychosocial burdens. Donors who may have wanted to remain anonymous at time of donation also face difficulty when contacted by a large number of biological offspring who desire to feel connected. Critically, large donor-sibling groups greatly increase the risks of unwitting relationships between half-siblings. Their children are at serious risk of suffering from severe genetic disorders. This bill takes a first step to address these issues by requiring gamete banks to provide key information to recipient parents and donors on the risks and harms faced by DCPs and the capability of direct-to-consumer genetic tests to connect DCPs to their donors and half-siblings.

2) *CDPH oversight of tissue banks*. CDPH licenses and surveys several types of tissue facilities, including assisted reproductive technology facilities, such as sperm banks, autologous tissue storage facilities, as well as fertility clinics. However, while various types of facilities are considered tissue banks, each may interact and use the tissue for different purposes. For instance, an assisted reproductive technology facility, like a sperm bank, may collect donor tissue and send it to a fertility clinic, where the tissue will be used. FDA regulations require the sperm bank to collect relevant donor information, conduct tests on the tissue, and make a determination of donor-eligibility. When the sperm bank sends the tissue to a fertility clinic for use, certain information must follow the

tissue. However, the sperm bank is generally not permitted to send the donor's personal information to the fertility clinic along with the tissue. The sperm bank will retain the donor's personal information along with a declaration of whether or not the donor wishes to disclose their identity.

3) *New awareness of large donor conceived sibling groups.* Direct-to-consumer genetic testing (e.g., 23andMe, AncestryDNA) and genealogy-based registries have revealed cases of large donor-sibling groups (many dozens to hundreds) and helped DCPs connect with each other. Given that conceptions using donor insemination have increased and donor sperm can be sold to recipient parents or distributed to other gamete banks without tracking of or limits on resultant births, the number and size of donor-sibling groups remains indeterminate.

   Current guidance from the American Society for Reproductive Medicine (ASRM) on single-donor conception states that institutions, clinics, and sperm banks should maintain sufficient records to allow a limit to be set for the number of pregnancies for which a given donor is responsible. The guidance states it is difficult to provide a precise number of times that a given donor can be used because one must take into consideration the population base from which the donor is selected and the geographic area that may be served by a given donor. ASRM further states that it has been suggested that in a population of 800,000, limiting a single donor to no more than 25 births would avoid any significant increased risk of inadvertent consanguineous conception. The guidance adds that this suggestion may require modification if the population using donor insemination represents an isolated subgroup or if the specimens are distributed over a wide geographic area. By comparison, many countries either forbid anonymous donations or have limits on the number of conceptions permitted per donor, usually ranging from three to 25.

   However, consanguineous conception is not the only consideration; there are also psychological factors for the DCP to consider. Meeting a few donor-linked families can be a positive experience; the impact of meeting 25 to 50 families may be more challenging or a negative experience. In a 2020 survey conducted by We Are Donor Conceived of 481 DCPs, 92% of respondents supported a limit on the number of offspring from a single donor. 94% of respondents agreed that they should have the option to know the number of half-siblings; 71% experienced negative emotions associated with their method of conception; and 43% expressed concern they may unwittingly enter a romantic relationship with a half-sibling.

There are no requirements in state law that address the genetic risks of consanguinity between related donor conceived people and any other related information that consumers may find useful. ASRM does include psychoeducational counseling as part of its recommendations for both the donor and the recipient on topics such as the challenges of anonymity because of direct-to-consumer DNA testing, technological advances, social media, and implications for donor-conceived families and future implications for the children of having persons who are linked through the same donor. Colorado recently passed legislation that will eventually give DCPs the ability to obtain the identity of the donor used to conceive them and set an enforceable limit of 25 families for any one gamete donor. The legislation also contains similar informational requirements for donors and recipients to those in this bill.

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

According to the Senate Appropriations Committee, CDPH estimates costs of $375,000 (Tissue Bank Fund) over 3 years to develop the information specified in the bill and to oversee the implementation of clarifying regulations.

SUPPORT: (Verified 8/10/22)

California Catholic Conference
U.S. Donor Conceived Council

OPPOSITION: (Verified 8/10/22)

American Society for Reproductive Medicine
Department of Finance

ARGUMENTS IN SUPPORT: U.S. Donor Conceived Council, a group that advocates on behalf of the interests of DCPs writes that this bill ensures that recipient parents and gamete donors receive basic information on the potential genetic risks and psychosocial burdens created by the lack of regulation of the uses of gamete donations. DCPs have been vocal about these issues, which have been substantiated with data by subject matter experts. Of particular concern is the continually growing number of large donor-sibling groups. DCPs face significant psychosocial harm as their donor-sibling group continues to grow and it becomes apparent that half-siblings could live globally and no data on the actual number of half-siblings may ever be known. The unrestricted use of sperm donations also leads to an unusually large number of half-siblings close in socioeconomic background, age, and location – influential determinants of partner selection among U.S. adults. DCPs who are half-siblings may therefore go on to unwittingly

have children together who would then be at a greatly elevated risk of genetic disease. Finally, they add, parents of DCP may fear the stigma they or their children may encounter as a result of the use of sperm donations. Parents may also not know how or when to best communicate with their children about their method of conception or the presence of an unknown number of half-siblings in other parts of the state, country, and beyond. Parental education and transparency are key and will set the stage for more awareness of the unique circumstances lived daily by DCP.

The California Catholic Conference writes that a sea change has recognized the rights of adoptees to documents about identity and origins. Yet DCPs face genealogical bewilderment at an even higher rate than adoptees, expressing this sense of loss on support sites like Anonymous Us and the Donor Sibling Registry. Donor conceived children are far more likely than children raised by their biological parents to say they feel no one understands them, to describe a lack of trust with their parents, to wonder about their donor and his family, if they have siblings, to worry about their health history, and wish for a connection to their ancestry, heritage and familial traits. In one study, nearly all donor-conceived adults sought to know any half-siblings they might have and to find their sperm donor, most seeing him as their biological father.

ARGUMENTS IN OPPOSITION: The American Society for Reproductive Medicine writes they are opposed because this bill would put an undue burden on physicians, who would be required to provide information on possible risks of unintentional consanguinity, risks that are unquantifiable by medicine or science. There is always some risk to reproduction, regardless of the method. Singling out donor-conception reproduction is not an effective mitigation strategy to combat those risks.

The Department of Finance writes that it is opposed to this bill as it creates additional cost pressure on the Tissue Bank License Fund, which is currently operating at a structural deficit, and this bill will exacerbate the fund's structural imbalance. Finance notes that additional expenditures from the Tissue Bank License Fund may expedite the need for a fee increase.

ASSEMBLY FLOOR: 75-1, 5/25/22
AYES: Aguiar-Curry, Arambula, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson,

Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NOES: Bauer-Kahan

NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Jen Flory / HEALTH / (916) 651-4111
8/26/22 15:41:16

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

SENATE RULES COMMITTEE AB 1938
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1938
Author: Friedman (D), Quirk (D) and Ting (D), et al.
Amended: 8/18/22 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 15-1, 6/28/22
AYES: Newman, Bates, Allen, Archuleta, Becker, Cortese, Dodd, Hertzberg, Limón, McGuire, Min, Rubio, Skinner, Wieckowski, Wilk
NOES: Melendez
NO VOTE RECORDED: Dahle

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 5/25/22 - See last page for vote

SUBJECT: Traffic safety: speed limits

SOURCE: Author

DIGEST: This bill authorizes, if the speed limit needs to be rounded down to the nearest five miles per hour (mph) increment of the 85th-percentile speed, the California Department of Transportation (Caltrans) or a local authority to lower the speed limit by five mph from the nearest five mph of the 85th percentile, as specified.

Senate Floor Amendments of 8/18/22 make minor clarifications to the bill at the request of the Administration by codifying intent language and clarifying that speed limits established in AB 43 (Friedman, Chapter 690, Statutes of 2021), which authorized lower speed limits under specified conditions, can be enforced using electronic devices, the same as in school zones and senior zones.

ANALYSIS:

Existing law:

1) Prohibits driving at a speed greater than is reasonable or prudent having due regard for weather, visibility, traffic, and the surface and width of the highway, and in no event at a speed which endangers the safety of persons or property. This is known as California's Basic Speed Law.

2) Establishes a maximum speed of 65 mph under most circumstances and allows for lower speed limits under numerous specified conditions.

3) Defines "engineering and traffic survey" (ETS) as a survey of highway and traffic conditions in accordance with methods determined by Caltrans for use by state and local authorities. An ETS must consider prevailing speeds, accident records, and conditions not readily apparent to the driver. An ETS may consider residential density and bicycle and pedestrian safety.

4) Authorizes Caltrans and local authorities to establish a speed limit on most streets of between 25 mph to 60 mph in five mph increments on the basis of an ETS.

5) Authorizes a local authority to lower the speed limit from the level established by an ETS under specified conditions.

6) Prohibits the use of speed traps, as defined, in arresting or prosecuting any violation of the Vehicle Code including speeding.

This bill clarifies the circumstances where and how much a local authority may lower the speed limit below that indicated by an ETS.

Comments

1) *Author's Statement.* "Last year the Governor signed my bill AB 43 to give cities more flexibility to lower speed limits. Unfortunately, some have interpreted AB 43 in a manner that removed pre-existing authority to deviate from the 85th percentile speed, an interpretation that would give cities less, not more flexibility on setting speed limits. AB 1938 simply codifies the pre-existing authority on setting speed limits and clarifies that the additional authority granted by AB 43 was meant to supplement, not supplant, that authority."

2) *Speed Limit Setting*. Last year the Legislature enacted major reforms, in the form of AB 43 (Friedman, Chapter 690, Statutes of 2021), to the process for setting speed limits with the intent of giving local governments specified authority to lower speed limits to reduce crashes and accidents. The implementation of those reforms has hit a speed bump with the Administration requesting a clarification in the law to implement the bill as intended. Without this change local government supporters of AB 43 are concerned that they will be required to increase speed limits rather than decrease them.

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

SUPPORT: (Verified 8/22/22)

Bike East Bay
California Bicycle Coalition
California City Transportation Initiative
California Walks
City of Alameda
City of Long Beach
City of Oakland
City of Sacramento
League of California Cities
Los Angeles County Bicycle Coalition
Mayor of City & County of San Francisco, London Breed
Mayor of City of Los Angeles, Eric Garcetti
Mayor of City of San Jose, Sam Liccardo
Move LA
Safe Routes to School National Partnership
San Francisco Municipal Transportation Agency
SPUR
Streets for All
Walk Oakland Bike Oakland
Walk San Francisco

OPPOSITION: (Verified 8/22/22)

None received

ASSEMBLY FLOOR: 76-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi,

Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Randy Chinn / TRANS. / (916) 651-4121
8/22/22 15:13:28

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

SENATE RULES COMMITTEE
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THIRD READING

Bill No: AB 1942
Author: Muratsuchi (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

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

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 76-0, 5/25/22 - See last page for vote

SUBJECT: Community colleges: funding: instructional service agreements with public safety agencies

SOURCE: Author

DIGEST: This bill authorizes a community college district that participate in an instructional service agreement (ISA) with a public safety entity to submit a copy of their most up to date ISAs and other specified information to the Chancellor's Office for review.

Senate Floor amendments of 8/25/22 (1) delete the requirement that, beginning with the 2024-25 fiscal year, instruction provided under an ISA be funded under the apportionment formula used for instruction in career development and college preparation and that the funding rate for career development and college preparation to be used to calculate allocations for instruction provided under an ISA; (2) authorize rather than require community college districts to agreements to the Chancellor's Office for review; (3) authorize rather than require community college districts to submit specified data to the Chancellor's Office; (4) include an additional academic year for which specified data may be submitted to the Chancellor's Office; (5) delays the date by which the Chancellor's Office is to issue recommendations from beginning with the 2024-25 fiscal year to on or

before December 31, 2024; and, (6) delete the requirement that the Chancellor's Office's recommendations be submitted on an annual basis.

ANALYSIS:

Existing law:

1) Adopts a Community College Student Success Funding Formula for California Community Colleges (CCC) general purpose apportionments for credit instruction intended to encourage access for underrepresented students, provide additional funding in recognition of the need to provide additional support for low-income students, reward colleges' progress on improving student success metrics, and improve overall equity and predictability so that community college districts may more readily plan and implement instruction and programs.

2) Provides that prior to adoption of 1), general purpose apportionments for credit instruction were funded based on an annual allocation based on the number of colleges and off-campus centers in a community college district and, principally, on a rate per full-time equivalent student (FTES) for enrollment in credit courses. The rate, which is adjusted annually for changes in the cost of living, is $5,907 per FTES in 2021-22.

3) Provides that career development and college preparation courses shall be funded at the same level as the credit rate, as established pursuant to 2).

4) Stipulates that the following career development and college preparation courses and classes, for which no credit is given, and that are offered in a sequence of courses leading to a certificate of completion, that lead to improved employability or job placement opportunities, or to a certificate of competency in a recognized career field by articulating with college-level coursework, completion of an associate of arts degree, or for transfer to a four-year degree program, and that meet funding criteria established by the CCC Board of Governors, shall be eligible for funding at the credit rate as established in 3):

    a) Classes and courses in elementary and secondary basic skills;

    b) Classes and courses for students eligible for educational services in workforce preparation classes, in the basic skills of speaking, listening, reading, writing, mathematics, decision-making, and problem solving skills that are necessary to participate in job-specific technical training;

c) Short-term vocational programs with high-employment potential, as determined by the chancellor in consultation with the Employment Development Department utilizing job demand data provided by that department; and

d) Classes and courses in English as a second language and vocational English as a second language. Districts offering courses described above, but not eligible for funding at the credit rate are eligible for funding at the noncredit rate.

5) Funds the following noncredit courses and classes at an established rate per-FTE student (currently $3,552) and adjusts the rate annually for the change in the cost of living:

a) Parenting, including parent cooperative preschools, classes in child growth and development, and parent-child relationships;

b) Elementary and secondary basic skills and other courses and classes such as remedial academic courses or classes in reading, mathematics, and language arts;

c) English as a second language;

d) Classes and courses for immigrants eligible for educational services in citizenship, English as a second language, and workforce preparation classes in the basic skills of speaking, listening, reading, writing, mathematics, decision making and problem solving skills, and other classes required for preparation to participate in job-specific technical training;

e) Education programs for persons with substantial disabilities;

f) Short-term vocational programs with high employment potential;

g) Education programs for older adults;

h) Education programs for home economics; and

i) Health and safety education.

6) Establishes, until January 1, 2022, the Community College Student Success Funding Formula Oversight Committee for the purpose of continuously evaluating and reviewing the implementation of the student success funding formula established pursuant to 1). A priority of the committee shall be to review and make recommendations to the Legislature and the Department of

Finance, by June 30, 2021, as to whether noncredit instruction and ISAs should be incorporated into the base and supplemental allocations of the formula.

7) Stipulates that, for purposes of computing a community college district's FTES, attendance shall also include student attendance and participation in in-service training courses in the areas of police, fire, corrections, and other criminal justice system occupations that conform to all apportionment attendance and course of study requirements otherwise imposed by law, if the courses are fully open to the enrollment and participation of the public. Prerequisites for such courses shall not be established or construed so as to prevent academically qualified persons who are not employed by agencies in the criminal justice system from enrolling in and attending the courses.

8) Stipulates that in the event in-service training courses are restricted to employees of police, fire, corrections, and other criminal justice agencies, attendance for the restricted courses shall not be reported for purposes of state apportionments. A community college district which restricts enrollment in in-service training courses may contract with any public agency to provide compensation for the cost of conducting such courses.

This bill:

1) Defines a public safety agency to include, but not necessarily limited to, a fire department, a police department, a sheriff's office, a public agency employing paramedics or emergency medical technicians, the Department of the California Highway Patrol, and the Department of Corrections and Rehabilitation.

2) Specifies that, beginning with the 2022-23 academic year, community colleges may submit a copy of their most up to date ISAs to the Chancellor's Office for review. If contracts are renewed or updated, they may be submitted to the Chancellor's Office.

3) Authorizes, beginning December 31, 2023, colleges with ISAs with public service agencies to annually submit to the Chancellor's Office data on course offerings, student enrollment and FTES, and completion, including data from the 2020-2021, 2021-2022, and 2022-23 academic years.

4) Requires the Chancellor's Office to issue recommendations to the Department of Finance and the Legislature on the ISA FTES apportionment districts are eligible to claim, on or before December 31, 2024.

Comments

1) *Need for the bill.* According to the author, "California public safety agencies have ongoing, mandated training through their respective state agencies which is critical to training public safety personnel critical to all communities. AB 1942 ensures these public safety agencies are able to receive their ongoing training through the California Community College system."

2) *Student Centered Funding Formula overview.* Prior to 2018-19, the state based community college general purpose apportionment funding for both credit and noncredit instruction almost entirely on full-time equivalent (FTE) enrollment. In 2018, the state changed the credit-based apportionment formula, now known as the Student Centered Funding Formula (SCFF), to include the following three main allocations:

   a) *Base Allocation.* As with the prior apportionment formula, the base allocation gives each district certain amounts for each of its colleges and state-approved centers. It also gives each district funding for each credit FTE student.

   b) *Supplemental Allocation.* The SCFF provides additional funding for every student who receives a Pell Grant, receives a need-based fee waiver, or is undocumented and qualifies for resident tuition. Student counts are "duplicated," such that districts receive twice as much supplemental funding for a student who is included in two of these categories.

   c) *Student Success Allocation.* The formula also provides additional funding for each student achieving specified outcomes—obtaining various degrees and certificates, completing transfer-level math and English within the student's first year, and obtaining a regional living wage within a year of completing community college. Each of the specified outcomes have different funding amounts.

   The formula does not apply to credit enrollment generated from incarcerated students, high school students, or to any noncredit enrollment. Apportionments for these students remain based entirely on enrollment.

3) *New formula protects districts from funding losses.* The new formula includes several hold harmless provisions for community college districts that would have received more funding under the former apportionment formula than the

new formula. For 2018-19, 2019-20, and 2020-21, these community college districts receive their total apportionment in 2017-18, adjusted for cost-of-living increases for each year of the period. Beginning in 2020-21, districts are to receive no less than the per-student rate they generated in 2017-18 under the former apportionment formula multiplied by their current full-time equivalent (FTE) student count. To help districts with declining enrollment, the state also retained its longstanding one-year hold harmless provision that allows districts to receive the greater of their calculated current-or prior-year allotments.

4) *This bill partially aligns with the funding formula oversight committee recommendation but lacks important data collection.* AB 1840 (Committee on Budget, Chapter 426, Statutes of 2018) established the Student Centered Funding Formula (SCFF) Oversight Committee, charged with continuously evaluating and reviewing the implementation of the funding formula. The 12 members of the committee are appointed equally by the Administration, Senate and Assembly. The Oversight Committee was charged to make recommendations by January 1, 2020, regarding the inclusion of first-generation college students, whether the definition of low-income students should be adjusted to regions of the state, and incoming students' level of academic proficiency. By June 30, 2021, the Oversight Committee was required to provide recommendations on whether the formula should include noncredit instruction and instructional service agreements and how district's allocations should be adjusted in a recession.

   The Oversight Committee recommended changing the funding rate for FTES enrollment in credit courses taught through ISAs to be the same rate as is used for Special Admit students in credit courses.

   However, the Oversight Committee also noted that the Chancellor's Office does not specifically collect data on courses taught through ISAs or on the students enrolled within these courses because districts are not required to indicate whether a given course is taught through an ISA. The Oversight Committee recommended that the Chancellor's Office collect data on courses taught through ISAs in order to better understand how these courses are serving students in the state and to be able to model the impact of any changes in funding on districts in the CCC system.

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

According to the Senate Appropriations Committee, the Chancellor's Office indicates that this bill would result in additional Proposition 98 General costs of

about $27.7 million each year to fund the courses offered through an instructional service agreement with public safety agencies. This estimate assumes there are approximately 16,682 FTES in those programs statewide, and that the credit rate per FTES would increase from $4,737 to $6,642 as a result of this measure. Total costs would increase from the current funding level of $69 million to $96.7 million.

The Chancellor's Office also estimates one-time General Fund costs of about $141,000 to update financial applications to collect additional apportionment data, develop new guidance on reporting requirements, and provide technical assistance to local colleges. There would be additional ongoing General Fund costs of at least $12,000 to comply with this bill's reporting requirements regarding funding for ISA's.

SUPPORT: (Verified 8/25/22)

California Professional Firefighters
Lake Tahoe Community College
Long Beach Fire Department
Los Angeles Area Regional Training Group
Los Angeles Community College District
Los Angeles County Inmate Reception Area
Los Angeles County Sherriff's Department
Los Angeles Fire Department Chief Officers Association
Los Rios Community College District
Peace Officers Research Association of California
Rancho Santiago Community College District
San Gabriel Fire Department
Santa Clarita Community College District
State Center Community College District
United Firefighters of Los Angeles City

OPPOSITION: (Verified 8/25/22)

Long Beach Community College District
Pasadena Area Community College District
South Orange County Community College District

ASSEMBLY FLOOR: 76-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong,

Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Ian Johnson / ED. / (916) 651-4105
8/26/22 15:41:16

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

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THIRD READING

Bill No: AB 1949
Author: Low (D)
Amended: 8/16/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-1, 6/21/22
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, McGuire, Stern, Wiener
NOES: Jones
NO VOTE RECORDED: Borgeas

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-0, 6/29/22
AYES: Cortese, Durazo, Newman, Wiener
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 59-9, 5/26/22 - See last page for vote

SUBJECT: Employees: bereavement leave

SOURCE: California Employment Lawyers Association
Crime Survivors for Safety & Justice
Equal Rights Advocates
Legal Aid at Work

DIGEST: This bill provides specified California workers with up to five days of job-protected leave from work to grieve and to attend to logistical matters in the event of the death of a close family member, as defined.

Senate Floor Amendments of 8/16/22 clarify that an employer has the discretion to pay an employee during a bereavement leave, even in the absence of an existing

paid bereavement leave policy and where the employee has no other form of paid leave available.

ANALYSIS:

Existing law:

1) Establishes the Department of Fair Employment and Housing (DFEH) to combat discrimination in housing and employment. Specifies that DFEH has the power to receive, investigate, conciliate, mediate, and prosecute complaints alleging practices made unlawful by the Fair Employment and Housing Act (FEHA). (Gov. Code §§ 12900-12930.)

2) Makes it an unlawful employment practice, under the California Family Rights Act (CFRA), for an employer to refuse to grant a request by a qualified employee to take up to a total of 12 workweeks in any 12-month period for family care and medical leave. Defines "family care and medical leave" for this provision to mean taking leave to care for a new child; to care for a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner who has a serious health condition; or to take leave because of the employee's own serious health condition, as specified. (Gov. Code § 12945.2.)

3) Requires the DFEH to create a small employer family leave mediation pilot program for employers with between five and nineteen employees. Allows an employer or employee, within a specified time after DFEH has issued a right-to-sue notice to an employee, to request to participate in the mediation pilot project. Specifies that if either the employer or the employee requests mediation, as prescribed, the employee may not pursue a civil action until mediation is deemed complete, as specified. (Gov. Code § 12945.21.)

4) Grants public employees, with specified exceptions, up to three days of paid bereavement leave if the death occurs in California, and up to an additional two days, paid or unpaid, if the death occurred outside of the state. (Gov. Code § 19859.3.)

This bill:

1) Defines "employee" to mean a person employed by the employer for at least 30 days prior to the commencement of leave except for certain exempt state employees.

2) Defines "employer" to mean either of the following:

a) a person who employs five or more persons to perform services for a wage or salary; or
b) the state and any political or civil subdivision of the state, including, but not limited to, cities and counties.

2) Defines “family member” to mean a spouse or a child, parent, sibling, grandparent, grandchild, domestic partner, or parent-in-law, as defined.

3) Provides that it is an unfair labor practice for an employer to refuse to grant an employee’s request to take up to five days of bereavement leave upon the death of a family member.

4) Provides that days of bereavement leave need not be consecutive and the leave must be taken within three months of the date of the death of the person prompting the need for the leave.

5) Authorizes an employee with no existing bereavement policy to take up to five unpaid days of bereavement leave. This leave may be substituted with vacation, personal leave, accrued and available sick leave, or compensatory time off, as specified.

6) Provides that an employer may request documentation, as specified, of the death of the family member and the employee shall provide that documentation within 30 days of the first day of the leave.

7) Prohibits an employer from refusing to hire, discharging, demoting, firing, suspending, expelling, or discriminating against an individual because of the following:

a) an individual’s exercise of the right to bereavement leave; or
b) an individual’s giving information or testimony as to their own bereavement leave, or another person's bereavement leave, in an inquiry or proceeding related to rights guaranteed under the bill.

8) Provides that it is an unlawful employment practice for an employer to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any of the above rights.

9) Requires an employer to maintain the confidentiality of the employee requesting the leave and any related documents received regarding violations of this section.

10) Exempts from the bill's provisions an employee who is covered by a valid collective bargaining agreement if the agreement expressly provides for bereavement leave equivalent to that required in 6), above, and for premium and regular rate of pay, as specified.

11) Requires DFEH to add to its small employer family leave mediation pilot program violations of the above provisions.

Comments

Federal and California law recognize that there are times in life when an employee must miss work in order to attend to the health and welfare of a family member. Of particular note, the California Family Rights Act (CFRA) allows employees to take up to 12 weeks of family leave to care for a newborn child or to care for family members suffering from a serious medical condition. (Gov. Code § 12945.2.) Similarly, the federal Family Medical Leave Act (FMLA) grants most employees the right to take up to 12 weeks unpaid time off work to care for a qualifying family member with a serious health condition. (29 U.S.C. § 2612.) However, under both CFRA and FMLA, an employee's right to take job-protected time off to care for a qualifying family member only applies while the qualifying family member is alive. There are no existing laws that allow private sectors employees to take time off to grieve or deal with the myriad and complex logistical matters that arise when a close family member passes away. As a result, private employees are generally at the mercy of their employers when a family member dies.

To give California workers greater assurance that they will have the time they need to mourn the loss of a close family member and put their affairs in order, this bill would establish a right to job-protected bereavement leave. To protect small businesses who must have everyone present in order to operate, the bill only covers employers with five or more workers. This is consistent with CFRA's scope as well. Employees would not be eligible immediately upon hire; they would have to accumulate 30 days of service first. Once they qualified for the leave, employees would be able to take up to five days off for the death of close family member, defined, as in CFRA, to mean a spouse, child, parent, sibling, grandparent, grandchild, domestic partner, or parent-in-law. In recognition of the fact that wrapping up the affairs of a family member cannot necessarily be done in a neat and orderly schedule, the bill specifies that the five days need not be taken

consecutively, but a worker cannot drag things out indefinitely: the bill requires the leave to be taken within three months of the family member's passing.

The bill proposes to place the right to bereavement leave alongside CFRA in the Fair Employment and Housing Act (FEHA). (Gov. Code §§ 12900-12930.) An employer's failure to allow a worker to take bereavement leave as required would constitute an unlawful employment practice. So would any adverse action taken against an employee for exercising their right to bereavement leave. Aggrieved workers could bring administrative complaints about violations to DFEH for investigation and resolution. After filing their administrative complaint, employees would also have the option of requesting a right to sue letter from DFEH and initiating a complaint in court. When employees complain to DFEH that an employer with between five and 19 employees has violated CFRA, the small business has the option of requesting that DFEH attempt to mediate the matter. (Gov. Code § 12945.21.) This bill makes the same mediation program available to small businesses in the event that an employee alleges a violation of the new bereavement leave law.

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

According to the Senate Appropriations Committee:

- The Department of Fair Employment and Housing (DFEH) estimates that it would incur first-year General Fund costs of $470,000, and $464,000 annually thereafter, to investigate and enforce new complaints alleging a violation of bereavement leave rights. The Department assumes that 100 complaints would be filed per year, a figure derived from (1) the number of family and medical leave complaints DFEH receives, and (2) the fact that a large majority of employers already provide bereavement leave at some level.

- The bill would additionally result in increased staffing costs for state departments by increasing the minimum days available for excluded employees to take bereavement leave. The magnitude of the increased costs is unknown, but potentially significant. Currently, an excluded employee is entitled to three days of paid bereavement leave and, if the death occurs out of state, two additional days of leave using unpaid time or accrued sick leave. This bill would effectively guarantee all bereaved state employees a minimum of five days.

SUPPORT: (Verified 8/24/22)

California Employment Lawyers Association (co-source)

Crime Survivors for Safety & Justice (co-source)
Equal Rights Advocates (co-source)
Legal Aid at Work (co-source)
Rob Bonta, Attorney General, State of California
AARP
American Association of University Women – California
American Association of University Women – San Jose Branch
American Federation of State, County, and Municipal Employees, AFL-CIO
Association of California Caregiver Resource Centers
Beloved Survivors Trauma Recovery Center
Broken By Violence
Business and Professional Women of Nevada County
California Conference Board of the Amalgamated Transit Union
California Conference of Machinists
California Federation of Teachers
California Immigrant Policy Center
California Labor Federation
California Latinas for Reproductive Justice
California School Employees Association
California State Board, Sheet Metal, Air, Rail, and Transportation Workers
California Teachers Association
California Teamsters Public Affairs Council
California Work & Family Coalition
Californians for Safety and Justice
Caring Across Generations
Child Care Law Center
Church State Council
Consumer Attorneys of California
Crime Survivors for Safety and Justice
Ella Baker Center for Human Rights
Engineers & Scientists of California, IFPTE Local 20
Friends Committee on Legislation of California
Initiate Justice
Integral Community Solutions Institute
Jewish Center for Justice
Los Angeles Alliance for a New Economy
Los Angeles Best Babies Network
National Association of Social Workers, California Chapter
National Council of Jewish Women – Los Angeles
National Women's Political Caucus of California

Nevada County Citizens for Choice
Pillars of the Community
Public Counsel
Restaurant Opportunities Centers of California
Sharp Healthcare
Unite Here International Union, AFL-CIO
United Communities for Peace
United Food and Commercial Workers, Western States Council
United Public Employees
Utility Workers of America
Women For: Orange County
Working Partnerships USA
Worksafe

OPPOSITION: (Verified 8/16/22)

California Landscape Contractors Association
Construction Employers Association
Housing Contractors of California
National Federation of Independent Business - California

ARGUMENTS IN SUPPORT: According to the author:

> This legislation will ensure workers are entitled to take job-protected, unpaid bereavement leave to mourn the loss of their immediate family member. AB 1949 guarantees workers up to 5 business days of unpaid leave. It does not affect existing collective bargaining agreements that provide for this minimum level of bereavement leave. No person should fear losing their job by taking time to grieve the death of their loved one. We cannot expect people to work at full productivity while they are mourning the death of a loved one, regardless of cause. AB 1949 will protect Californians during moments of immense hardship.

As sponsor of the bill, California Employment Lawyers Association, Crime Survivors for Safety & Justice, Equal Rights Advocates, and Legal Aid at Work collectively write:

> [I]n 1968, when the Vietnam War death toll was at its peak, the U.S. government passed funeral leave for federal employees to

> take time off for the combat-related deaths of family or 'any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.' We must act with the same kind of compassion to protect the Californians who have lost a family member during this pandemic or for other reasons. Because no one worker should ever have to choose between their employment and grieving the loss of a loved one.

ARGUMENTS IN OPPOSITION: In opposition to the bill, the National Federation of Independent Business - California writes:

> We acknowledge that AB 1949 has undergone numerous change from last year's AB 95 which makes the bill less onerous; however, California has a multitude of leaves available to employees. Many businesses do include unpaid leave on their own for employees to attend funerals and other related services. That said, the layering of various leaves makes it especially difficult for small businesses to comply and continue the operation of a small business. We support the rights of employers to provide bereavement leave on a voluntary basis. However, California simply cannot continue to burden employers with the thread of new mandates as small businesses continue to claw back after two years of COVID-instilled slowdowns.

ASSEMBLY FLOOR: 59-9, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Cooley, Cooper, Cunningham, Davies, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Megan Dahle, Fong, Gallagher, Kiley, Nguyen, Seyarto, Smith, Voepel

NO VOTE RECORDED: Berman, Choi, Daly, Flora, Grayson, Lackey, Mayes, O'Donnell, Patterson, Valladares

Prepared by: Timothy Griffiths / JUD. / (916) 651-4113
8/24/22 10:05:47

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

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THIRD READING

Bill No: AB 1965
Author: Wicks (D), et al.
Amended: 8/23/22 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 4-0, 6/27/22
AYES: Hurtado, Cortese, Kamlager, Pan
NO VOTE RECORDED: Jones

SENATE APPROPRIATIONS COMMITTEE: 5-0, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NO VOTE RECORDED: Bates, Jones

ASSEMBLY FLOOR: 63-3, 5/26/22 - See last page for vote

SUBJECT: California Antihunger Response Act of 2022

SOURCE: California Association of Food Banks
Western Center on Law and Poverty

DIGEST: This bill requires the California Department of Social Services (CDSS) to establish the California Antihunger Response Act of 2022 (CARE) to provide state-funded food assistance benefits to persons no longer eligible for CalFresh due to the federal able-bodied adult without dependents (ABAWD) time limits or ineligibility for other exemptions, as specified.

Senate Floor Amendments of 8/23/22 remove references to "employment and training," remove the July 1, 2024 operative date for the CARE Act benefit, and instead delay implementation of CARE Act benefits until one year after Welfare and Institutions Code Section 18930 (as amended), becomes operative.

ANALYSIS:

Existing law:

1) Establishes in federal law the Supplemental Nutrition Assistance Program (SNAP) within the US Department of Agriculture (USDA) 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. It establishes SNAP eligibility requirements, including income that is at or below 130 percent of the federal poverty level and is determined to be a substantial limiting factor in permitting a recipient to obtain a more nutritious diet. *(7 Code of Federal Regulations (CFR) 271.1; 7 CFR 273.9)*

2) Establishes eligibility criteria for SNAP benefits to include participation in SNAP employment and training (E&T), among other criteria. *(7 CFR 273.7)*

3) Requires, as a condition of eligibility for SNAP benefits, each non-exempt household member to comply with work requirements, which may include, registering for work, participating in an employment and training program, or participating in a workfare program. *(7 CFR 273.7(a)(1)(iii))*

4) Establishes the SNAP time limit for ABAWDs, which states that an individual is limited to receive SNAP for up to three months within a three-year period, unless the individual has met certain work participation requirements, as specified. *(7 CFR 273.24)*

5) Permits the USDA to waive the applicability of the three-month time limit for ABAWDs if the unemployment rate in which the ABAWD resides is 10 percent or higher. *(7 CFR 273.24 (6)(o))*

6) Establishes in California statute the CalFresh program to administer the provisions of federal SNAP benefits to low-income families and individuals meeting specified criteria. *(WIC 18900 et seq.)*

7) Requires CDSS annually, to the extent permitted by federal law, to seek a federal SNAP waiver to the three-month limit in a three-year period of CalFresh benefits for an ABAWD, unless that participant has met the work participation requirement, as provided. *(WIC 18926)*

This bill:

1) Makes a number of legislative findings and declarations regarding SNAP, the need to prioritize anti-hunger programs, and the federal 2018 Farm Bill's effect on the ABAWD time limit.

2) Requires CDSS to use appropriated state funds to establish the CARE program to provide food assistance benefits for a person who has been determined ineligible for CalFresh benefits, or for whom CalFresh benefits have been discontinued as a result of the federal ABAWD time limits, and for individuals who are also ineligible for a discretionary exemption, as specified.

3) Requires CDSS to provide CARE benefits as state discretionary exemptions, in addition to utilizing discretionary exemptions under federal law, as provided.

4) Requires an ABAWD or person ineligible for a discretionary exemption to receive CARE benefits in the same amount as they would have received in the CalFresh program but for the ABAWD time limit making them ineligible.

5) Requires benefits to be issued through the state-administered and state-funded electronic benefits transfer (EBT) system developed pursuant to the Electronic Benefits Transfer Act.

6) Allows for the EBT system used to issue the CARE program to also be used to issue other state-funded food assistance benefits.

7) Provides that the CARE program is only applicable during a period of time in which a statewide time limit waiver is not granted, and in such periods of time, only in those areas not granted an area time limit waiver by the federal government.

8) Requires the CARE benefit to be operable one year after the California Food Assistance Program (CFAP) expansion starts, as provided.

9) Requires CDSS by April 1, 2023, to develop guidance in consultation with the Office of Systems Integration, county human services agencies, and other relevant stakeholders on maximizing the use of discretionary exemptions available under federal law related to SNAP.

10) Permits CDSS guidance to include redistribution of discretionary exemptions between counties if necessary, to maximize the use of discretionary exemptions to prevent hunger among persons subject to the federal ABAWD time limits.

11) Provides that if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made, as provided.

Comments

According to the author, "Access to food is critical to the health of our communities. The time limits for Able-Bodied Adults Without Dependents (ABAWDs) to access CalFresh benefits [disproportionately] affect people of color, former foster youth, the re-entry population, veterans, and people without a high school or bachelor's degree. The loss of CalFresh eligibility and benefits due to these strict rules increases hunger and poverty. AB 1965 provides support to individuals who would lose CalFresh eligibility due to the ABAWD rules and helps ensure that they are supported during challenging times."

Poverty in California. According to the official poverty measure, nearly 4.5 million (11.8 percent) Californians lived in poverty in 2020. According to the supplemental poverty measure, a more refined measure that takes into account cost of food, clothing and shelter and utilities and other factors, a little over 6 million (15.4 percent) Californians lived in poverty in 2020, which is the highest rate in the nation. Using a slightly different methodology, the California Poverty Measure (CPM), the Public Policy Institute of California (PPIC) found that 16.4 percent of Californians, or about 6.3 million people, lacked enough resources to meet their basic needs in 2019. An additional 16.4 percent of Californians were not in poverty but lived fairly close to the poverty line. This means that more than a third, or 34 percent, of Californians were poor or near poor in 2019. The PPIC also noted that although poverty in California had declined from 2019 to 2020, the effects of COVID-19 Pandemic on poverty are still unclear.

At this time, the most recent CPM data does not take the COVID-19 pandemic into consideration, because the most recent year for which we have data is 2019. The PPIC indicates that it is likely that COVID-19 increased poverty due to severely constrained employment opportunities. However, as noted by PPIC, there were various state and federal responses above and beyond the existing safety net, such as the CARES Act in 2020 and American Rescue Plan Act in 2021, which may have mitigated some poverty surges by providing economic support to those impacted. This seems to be reflected in the 2020 Census Bureau data, which shows an overall decline in poverty, in part due to COVID-19 relief measures such as the federal stimulus payments and unemployment insurance, which helped keep an estimated 1.7 million and 1 million Californians out of poverty, respectively. This initial data highlights the ability of government action to alleviate poverty. A more

nuanced picture of the overall poverty levels during the pandemic, and the impact of safety net provisions, will be available when CPM data for 2020 is available later this year.

CalFresh. CalFresh, California's version of federal SNAP benefits, 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. CalFresh is the largest nutrition assistance program in California, with 2.8 million households and over 4.9 million people receiving benefits in June of 202s. The program is administered by CDSS at the state level and California's 58 counties are responsible for administering CalFresh at the local level. CalFresh benefits are federally funded and national income eligibility standards and benefit levels are established by the federal government. Although benefits are federally funded, costs to administer the program are shared by state, county, and federal governments.

California determines CalFresh eligibility by seeing if the applicant's gross monthly income is 200 percent of the federal poverty level (FPL) or less for their household size. That means for a household of three in California, the maximum gross monthly income for CalFresh eligibility is $3,464. For a household of one in California, the maximum gross monthly income for CalFresh eligibility is $2,024. Households with seniors or disabled members are not subject to the gross income criteria; however, their net monthly income must be 100 percent of FPL or below.

Able Bodied Adults Without Dependents. According to federal SNAP rules, all recipients must meet work requirements unless they are exempt due to age, disability, or another specific reason. There are special rules that apply to ABAWDs, who are between 18 and 49 years of age, have no dependents and are not disabled. As established with the federal Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, under the ABAWD time limit, ABAWDs can only receive SNAP (CalFresh) benefits for three months in three years unless they work at least 80 hours per month, participate in a qualifying education and training activity for at least 80 hours per month, or comply with a workfare program. ABAWDs can also satisfy these requirements by participating in the CalFresh E&T program.

Due to high unemployment rates, California has been designated a 'work surplus area' and therefore, has been operating with a waiver to the ABAWD time limit rules. This allows ABAWDs to receive CalFresh benefits without being subject to the time limit and without fulfilling the work requirement rule. Though in recent years, some counties in the state would no longer be eligible for the waiver due to

lower overall unemployment rates. Under current state law, CDSS is annually required to apply for a federal exemption to the ABAWD rule if it meets certain federal criteria related to high unemployment. The USDA Food and Nutrition Services has approved California for a statewide ABAWD waiver, which is set to expire on June 30, 2023. Absent another statewide or county-specific waiver, ABAWDs will need to comply with federal work requirement rules or they will be subject to the three month within three years limit on food benefits.

2018 Farm Bill and Federal ABAWD Rule Changes. On December 20, 2018, the Agriculture Improvement Act of 2018 or federal Farm Bill, was signed into law by then President Trump, ushering in major changes to the United States food and agriculture programs. The USDA began implementation of key program changes to SNAP around work requirements for ABAWDs, who make up about 8.8 percent of SNAP participants. Specifically, the USDA published a final rule (Rule) on December 5, 2019, that effective April 1, 2020, would have restricted food assistance benefits under the SNAP/CalFresh program for unemployed ABAWDs. The Rule also revised the conditions under which the USDA would waive the ABAWD time limit in areas that have an unemployment rate of over 10 percent or a lack of sufficient jobs. The Rule also significantly restricted states' ability to carry forward unused discretionary exemptions, which was reduced from 15 percent to 12 percent of the state's ineligible caseload. However, the waiver percentage reduction was offset with changes to the employment and training programs aimed at increasing ABAWDs' ability to obtain regular employment.

California, along with 13 other states and two cities, filed a lawsuit against the USDA on January 16, 2020, to block implementation of the rule, as it was estimated that it would eliminate food assistance benefits for 688,000 to 850,000 people nationally, including about 400,000 Californians. While the case was being heard, the Rule was not implemented, and on October 18, 2020, a federal judge vacated USDA's proposed rule changes to ABAWD eligibility and states' ability to request certain waivers. On March 24, 2021, the USDA Secretary under the Biden Administration released a statement on the D.C. Circuit Court's decision regarding the ABAWD rule stating that the USDA voluntarily moved to dismiss their appeal on the ABAWD Final Rule, which the court accepted. The USDA has since waived all ABAWD rules until the end of the Covid-19 pandemic for all states. This means that even if California's statewide waiver request expires on June 30, 2022, or a new request is not approved by the USDA, ABAWDs rules will still be waived until the end of the federal public health emergency declaration related to Covid-19.

This bill establishes the CARE Act benefit, to provide a nutrition benefit that is equivalent to CalFresh for people ineligible for CalFresh and delays implementation of the CARE Act benefit until one year after the CFAP expansion become operative as provided, for the periods of time when the state is not eligible to receive a federal waiver for unemployed ABAWDs to receive SNAP/CalFresh. The bill requires CDSS to use appropriated state funds to provide food assistance benefits to persons who have been determined ineligible for SNAP/CalFresh due to federal ABAWD rules or who are ineligible for a discretionary exemption. This bill also requires CDSS to develop and issue guidance by April 1, 2023, in consultation with the Office of Systems Integration, county human services agencies, and other relevant stakeholders to maximize the use of discretionary exemptions available under federal law related to SNAP, as provided.

Related/Prior Legislation

SB 609 (Hurtado, Chapter 606, Statutes of 2021) included adult education and career technical education among the list of programs that may allow a student to qualify for an exemption to the CalFresh student eligibility rule.

AB 2413 (Ting, 2020) would have required CDSS to streamline certain aspects of the semi-annual reporting process through system changes to prepopulate the semiannual reporting process forms. AB 2413 was substantially amended on July 1, 2020, such that it no longer fell in the jurisdiction of the Human Services Committee.

AB 1022 (Wicks, 2019) would have established the California Anti-Hunger Response and Employment Training Act of 2019, requiring CDSS to provide a state-funded food benefit to individuals who are deemed ineligible for CalFresh due to the ABAWD time limit. AB 1022 was substantially amended on June 29, 2020, such that it no longer fell in the jurisdiction of the Human Services Committee.

AB 1229 (Wicks, 2019) would have required CDSS to issue guidance to county human services departments that requires counties to, among other things, establish a self-initiated workfare program for former foster youth that will enable them to meet the ABAWD work requirement. AB 1229 was held in the Senate Appropriations Committee.

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

According to the Senate Appropriation Committee:

- CDSS estimates $121 million General Fund ongoing, for state-funded benefits and administration of the program.

- Costs to counties may be reimbursable by the state, subject to a determination by the Commission on State Mandates.

SUPPORT: (Verified 8/23/22)

California Association of Food Banks (co-source)
Western Center on Law and Poverty (co-source)
Alameda County Community Food Bank
Berkeley Food Network
California Edge Coalition
California Immigrant Policy Center
Central California Food Bank
Community Health Councils
Feeding San Diego
Food Bank of Contra Costa and Solano
Food for People, the Food Bank for Humboldt County
Food in Need of Distribution Food Bank
Food Share
Foodbank of Santa Barbara County
Glide
Hunger Action Los Angeles INC
Los Angeles Regional Food Bank
National Association of Social Workers, California Chapter
Nourish California
Sacramento Food Bank & Family Services
San Diego Hunger Coalition
San Francisco-Marin Food Bank
Second Harvest Food Bank of Orange County
Second Harvest of Silicon Valley

OPPOSITION: (Verified 8/23/22)

None received

ASSEMBLY FLOOR: 63-3, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Cooley, Cooper, Cunningham, Daly, Davies, Mike Fong, Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Seyarto, Smith
NO VOTE RECORDED: Berman, Choi, Megan Dahle, Flora, Gallagher, Gray, Kiley, Lackey, Nguyen, O'Donnell, Patterson, Voepel

Prepared by: Bridgett Hankerson / HUMAN S. / (916) 651-1524
8/24/22 19:23:21

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

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THIRD READING

Bill No: AB 1973
Author: McCarty (D)
Amended: 6/30/22 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 4-1, 6/29/22
AYES: Leyva, Cortese, McGuire, Pan
NOES: Dahle
NO VOTE RECORDED: Ochoa Bogh, Glazer

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 51-13, 5/16/22 - See last page for vote

SUBJECT: Kindergarten: minimum schoolday

SOURCE: Author

DIGEST: This bill phases in a requirement for school districts and charter schools offering a kindergarten program to offer at least one full-day kindergarten class at each schoolsite, as specified.

ANALYSIS: Existing law establishes the Local Control Funding Formula (LCFF) which provides per-pupil funding targets, with adjustments for different student grade levels and includes supplemental funding for local educational agencies (LEAs) serving students who are low-income, English learners, or foster youth. The LCFF replaced almost all sources of state funding for LEAs, including most categorical programs, with general purpose funding including few spending restrictions. The largest component of the LCFF is a base grant generated by each student. Current law establishes base grant target amounts for the 2013-14 fiscal year, which are increased each year by the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States.

This bill:

1) Requires, from the 2027-28 school year to the 2029-30 school year, a school district or charter school providing a kindergarten program, and that has an enrolled unduplicated pupil percentage of 50 percent or more, to provide a full-day kindergarten class at each schoolsite.

2) Requires, beginning in the 2030-31 school year, every school district or charter school providing a kindergarten program to provide a full-day kindergarten class at each schoolsite.

3) Specifies that this requirement does not apply to transitional kindergarten (TK) attendance.

Background

In 2013, the LCFF was enacted. The LCFF establishes per-pupil funding targets, with adjustments for different student grade levels, and includes supplemental funding for LEAs serving students who are low-income, English learners, or foster youth. The LCFF replaced almost all sources of state funding for LEAs, including most categorical programs, with general purpose funding including few spending restrictions.

The largest component of the LCFF is a base grant generated by each student. Current law establishes base grant target amounts for the 2013-14 fiscal year, which are increased each year by the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States.

The base grant target rates for each grade span for the 2021-22 fiscal year are as follows:

1) $8,935 for grades K-3 (includes a 10.4 percent adjustment for class size reduction);

2) $8,215 for grades 4-6;

3) $8,458 for grades 7-8;

4) $10,057 for grades 9-12 (includes a 2.6 percent adjustment for career technical education).

The K-3 base grant amount above includes a 10.4 percent increase, which districts receive for maintaining an average class enrollment of not more than 24 pupils for each schoolsite in kindergarten and grades 1 to 3, inclusive unless a collectively

bargained alternative annual average class enrollment for each schoolsite in those grades is agreed to.

For each disadvantaged student, a district receives a supplemental grant equal to 20 percent of its adjusted base grant. A district serving a student population with more than 55 percent of disadvantaged students receives concentration grant funding equal to 50 percent of the adjusted base grant for each disadvantaged student above the 55 percent threshold.

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funding equal to 50 percent of the adjusted base grant for each disadvantaged student above the 55 percent threshold.

Comments

1) *Need for this bill.* According to the author, "Full-day kindergarten gives students the time they need to engage in meaningful learning and play, resulting in greater school readiness, self-confidence, and academic achievement compared to part-day programs. However, some school districts only offer part-day programs, leaving students without access to the benefits of full-day kindergarten. AB 1973 requires school districts and charter schools to offer full-day kindergarten programs, giving all students the opportunity to participate in a full-day program, which will prepare them with the skills they need to thrive in school and beyond."

2) *Research on the impact of full-day kindergarten is mixed.* While many argue that a large body of research demonstrates that full-day kindergarten programs benefit children, a 2009 Public Policy Institute of California study states that "research to date…has provided little evidence of long-term academic benefits beyond kindergarten or first grade." Further, an analysis done by the Research and Development (RAND) Corporation titled "Ready for School: Can Full-Day Kindergarten Level the Playing Field" found that "This study reinforces the findings of earlier studies that suggest full-day kindergarten programs may not enhance achievement in the long term. Furthermore, this study raises the possibility that full-day kindergarten programs may actually be detrimental to mathematics performance and to nonacademic readiness skills."

3) *Most school districts already operate full-day kindergarten programs.* According to the Legislative Analyst Office (LAO), as of 2017-18, 71 percent of school districts in California ran only full-day kindergarten programs, 19 percent ran only part-day programs, and 10 percent ran a mix of full-day and part-day programs. The LAO estimates that approximately 70 percent of kindergarten students attend a full-day program and roughly 30 percent attend a part-day program. Enrollment in full-day programs has grown significantly since 2007-08 when 43 percent of students were attending full-day kindergarten programs. A recent study conducted by the University of California, Los Angeles (UCLA), on behalf of the California Department of Education (CDE) found that the average full-day kindergarten session was 5.6 hours and the part-day sessions averaged 3.5 hours.

4) *Why do some districts not offer full-day kindergarten?* School districts determine the length of their kindergarten programs. Part-day programs operate

between three to four hours per day, and full-day programs operate for more than four hours per day. Schools operating part-day programs typically run a morning session and afternoon session in the same classroom using two teachers—one teacher in the morning and another in the afternoon. Full-day programs, in contrast, require a separate classroom and are typically assigned one full-time teacher who leads the class throughout the day. The state funds kindergarten through the Local Control Funding Formula, which provides districts the same per student funding rate for part-day and full-day programs ($8,235 per student in 2018 19).

When surveyed by the LAO for their reasons for not operating full-day kindergarten programs, school districts reported a variety of reasons, including limited classroom space, teachers preferring part-day programs because they receive additional support from another teacher throughout the day, and parent preference for a shorter school day for their children.

According to the 2017 UCLA study, lack of classroom space has been a primary barrier to offering full-day kindergarten. In order to address this problem and facilitate the expansion of full-day kindergarten, the state has invested $890 million over the last 4 years in grant funding to support full-day kindergarten programs ($100 million in 2018-19, $300 million in 2019-20, and $490 million in 2021-22).

California is experiencing a significant shortage of teachers overall. A 2020 research brief by the Learning Policy Institute (LPI) notes that "When California students returned to school in fall 2019, hundreds of thousands returned to classrooms staffed by substitutes and teachers who were not fully prepared to teach. In recent years, California has experienced widespread shortages of elementary and secondary teachers as districts and schools seek to restore class sizes and course offerings cut during the Great Recession." The LPI report goes on to say that "Analysis of statewide teacher supply and demand factors indicates that there are three main factors driving shortages in California: the decline in teacher preparation enrollments, increased demand for teachers, and teacher attrition and turnover. However, the relative weight of supply and demand factors can vary from district to district."

The expansion of TK is expected to exacerbate this need as it is projected that full implementation of TK with reduced staffing ratios will require up to 12,000 or more additional credentialed teachers, as well as up to 25,000 teacher assistants.

5) *Charter schools would be required to comply.* As summarized above, the LCFF currently provides a 10.4 percent adjustment to the K-3 base grant for school districts that maintain an average class enrollment of not more than 24 pupils for each schoolsite in kindergarten and grades 1 to 3, inclusive, unless a collectively bargained alternative annual average class enrollment for each schoolsite in those grades is agreed to. Charter schools also receive this adjustment, however, they are not required to comply with the class size requirement.

   As currently drafted, this bill would eventually require all charter schools providing a kindergarten program to offer at least one full-day kindergarten class at each schoolsite.

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

According to the Senate Appropriations Committee, by requiring schools to offer at least one full-day kindergarten class at each school site, this bill could result in a state reimbursable mandate. The extent of the resulting Proposition 98 General Fund costs is unknown but likely to be significant, potentially in the low hundreds of millions of dollars just for one-time facilities related costs. School districts that currently do not offer full-day programs may have limited classroom space and typically run a morning session and afternoon session in the same classroom. To facilitate the expansion of full-day kindergarten, the state has provided $890 million over the last four years in grant funding to support full-day kindergarten programs ($100 million in 2018-19, $300 million in 2019-20, and $490 million in 2021-22). The 2022 Budget Act provides an additional $650 million in one-time General Fund towards the California Preschool, Transitional Kindergarten and Full-Day Kindergarten Facilities Grant Program. To the extent that the Commission on State Mandates deems the bill's requirements to be a mandate, these funds may be considered as offsetting revenues.

SUPPORT: (Verified 8/11/22)

California Association for Bilingual Education
California School Employees Association
California State PTA
Early Edge California
First 5 California
The Education Trust-West

OPPOSITION: (Verified 8/11/22)

Association of California School Administrators
California School Boards Association

ARGUMENTS IN SUPPORT: First 5 California states, "Research shows that full-day kindergarten programs are associated with greater growth in cognitive, reading, and math skills compared to part-day programs – crucial academic building blocks that prepare children for first grade. Full-day kindergarten programs also improve school-readiness by giving children more opportunities for social-emotional and behavioral development, resulting in greater self-confidence and ability to work and play with others.

"While the number of districts providing full-day programs has increased in recent decades, many students are still left out of this opportunity because they attend school districts that only offer part-day programs. Recognizing the need to expand access, the state has invested $890 million in grant funding to support the construction of facilities to support full-day kindergarten over the last three years.

"AB 1973 sets California's youngest learners up for success in school and beyond by requiring school districts and charter schools to offer full-day kindergarten programs to all children starting in the 2025-26 school year. This bill will give students the time they need to engage in meaningful learning and play, resulting in greater school readiness, self-confidence, and academic achievement compared to part-day programs."

ARGUMENTS IN OPPOSITION: The California School Boards Association states, "Many kindergarten programs operate on a half-day schedule, primarily due to logistical challenges and lack of facility capacity. As a result, many offer separate morning and afternoon kindergarten programs not for policy reasons, but rather because they lack adequate facility capacity and/or teachers to meet demand. As such, this enables school districts to assign one teacher to a kindergarten classroom but serve twice as many students by providing separate morning and afternoon kindergarten classes in the same classroom. AB 1973 would also present increased challenges to our smaller and more rural school districts, which already struggle to a greater degree with staffing shortages and lack of adequate school facilities.

"Furthermore, there is no additional funding identified in this measure to fund the expansion of full-day kindergarten. Without additional funding to help school districts of all sizes offer full-day kindergarten, many districts will be faced with the unenviable task of choosing between offering full-day kindergarten or

foregoing their class size reduction (CSR) funding and increasing class sizes for some of our youngest students. Although we appreciate the intent of the bill to provide full-day kindergarten, we believe additional funding separate and apart from the CSR program is a better approach to achieving this goal."

ASSEMBLY FLOOR: 51-13, 5/16/22
AYES: Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooper, Daly, Mike Fong, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Maienschein, Mayes, McCarty, Medina, Mullin, O'Donnell, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Mathis, Patterson, Seyarto, Smith, Voepel
NO VOTE RECORDED: Aguiar-Curry, Choi, Cooley, Cunningham, Friedman, Gray, Lackey, Low, Muratsuchi, Nazarian, Nguyen, Quirk-Silva, Blanca Rubio, Ting

Prepared by: Ian Johnson / ED. / (916) 651-4105
8/13/22 16:48:30

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

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THIRD READING

Bill No: AB 1982
Author: Santiago (D)
Amended: 8/23/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 10-0, 6/29/22
AYES: Pan, Melendez, Eggman, Grove, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Gonzalez

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 75-0, 5/25/22 - See last page for vote

SUBJECT: Telehealth: dental care

SOURCE: California Dental Association

DIGEST: This bill requires health plan contracts and insurance policies that offer dental service via telehealth through a third-party corporate telehealth provider to report to regulators on specified information and disclose to enrollees and insureds the impact of third-party telehealth visits on the patient's benefit limitations, including frequency limitations and the patient's annual maximum.

Senate Floor Amendments of 8/23/22 redefine "third-party corporate telehealth provider" to mean a corporation that provides dental services exclusively through a telehealth technology platform and has not physical location at which a patient can receive services, and is directly contracted with a health plan, including a specialized health plan that issues, sells, renews, or offers a plan contract covering dental services.

ANALYSIS:

Existing law:

1) Establishes the Department of Managed Health Care (DMHC) to regulate health plans under the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act); California Department of Insurance (CDI) to regulate health and other insurance; and, the Department of Health Care Services (DHCS) to administer the Medi-Cal program. [HSC §1340, et seq., INS §106, et seq., and WIC §14000, et seq.]

2) Establishes requirements for health plans, including that services are readily available at reasonable times consistent with good professional practice and to the extent telehealth services are appropriately provided that they be considered in determining compliance with timely access regulations. [HSC §1367]

3) Requires, as part of existing reports submitted to DMHC, a health plan to submit, in a manner specified, data regarding network adequacy, including, but not limited to, the following:

   a) Provider office location;
   b) Area of specialty;
   c) Hospitals where providers have admitting privileges, if any;
   d) Providers with open practices;
   e) The number of patients assigned to a primary care provider or, for providers who do not have assigned enrollees, information that demonstrates the capacity of primary care providers to be accessible and available to enrollees; and,
   f) Grievances regarding network adequacy and timely access that the health care service plan received during the preceding calendar year. [HSC § 1367.035]

4) Requires CDI to promulgate regulations applicable to health insurers to ensure access to health care in a timely manner, and designed to ensure adequacy of the number of locations of institutional facilities and professional providers, adequacy of number of professional providers, and license classifications, consistent with standards of good health care and clinically appropriate care, and that contracts are fair and reasonable. Requires health insurers to report annually on complaints received by the insurer regarding timely access to care. Requires CDI to review these complaints and any complaints received

regarding timeliness of care and make this information public. [INS §10133.5]

5) Requires a health insurer, including a specialized plan that covers dental expenses, to provide or arrange for the provision of covered health care services in a timely manner appropriate for the nature of the insured's condition, consistent with good professional practice. Requires an insurer to establish and maintain provider networks, policies, procedures, and quality assurance monitoring systems and processes sufficient to ensure compliance with this clinical appropriateness standard. [INS 10133.54]

6) Requires contracts between health plans/insurers and health care providers to specify that reimbursement and coverage for services appropriately delivered through telehealth are on the same basis and to the same extent as services provided in person. Prohibits coverage from being limited only to services delivered by select third-party corporate telehealth providers. Permits a health plan/insurer to offer a contract containing a copayment or coinsurance for telehealth services that does not exceed the copayment or coinsurance applicable through those same services delivered in-person. [HSC §1374.14 and INS §10123.855]

7) Requires, if a health plan/insurer offers a service via telehealth through a third-party corporate telehealth provider, certain conditions to be met including a disclosure notice of the availability of receiving the service on an in-person basis or via telehealth, if available, from the enrollee's or insured's primary care provider, treating specialist, or from another contracting individual health professional, contracting clinic, or contracting health facility consistent with the service and existing timeliness and geographic access standards law and regulations. Additionally, requires a reminder that if the enrollee or insured has coverage for out-of-network benefits, of the availability of receiving the service either via telehealth or on an in-person basis using the enrollee's or insured's out-of-network benefits, the cost sharing obligation for out-of-network benefits compared to in-network benefits, and balance billing protections for services received from contracted providers. [HSC § 1374.141 and INS § 10123.856]

8) Requires a health plan/insurer to include in its reports submitted to DMHC/CDI pursuant to network adequacy law and regulations, in a manner specified by DMHC/CDI, all of the following for each product type:

a) By specialty, the total number of services delivered via telehealth, including the number provided by contracting individual health professionals and the number provided by third-party corporate telehealth providers;
b) The names of each third-party corporate telehealth provider contracted with the plan and, for each, the number of services provided by specialty;
c) For each third-party corporate telehealth provider with which it contracts, the percentage of the third-party corporate telehealth provider's contracted providers available that are also contracting individual health professionals; and,
d) The types of telehealth services utilized by enrollees\insureds, including frequency of use, gender, age, demographic information, and any other information as determined by the DMHC/CDI. [HSC § 1374.141 and INS § 10123.856]

9) Requires, before the delivery of health care via telehealth, the health care provider initiating the use of telehealth to inform the patient about the use of telehealth and obtain verbal or written consent from the patient for the use of telehealth as an acceptable mode of delivering health care services and public health. Requires the consent to be documented. [BPC §2290.5]

This bill:

1) Requires a health plan/insurer that issues, sells, renews, or offers a plan contract or insurance policy covering dental services, including a specialized health plan contract or health insurance policy covering dental services that offers a service via telehealth to an enrollee or insured through a third-party corporate telehealth provider, to report to DMHC and CDI in a manner specified by DMHC and CDI, all of the following for each product type:

   a) The total number of services delivered via telehealth by a third-party corporate telehealth provider;
   b) For each third-party corporate telehealth provider with which it contracts, the percentage of the third-party telehealth provider's contracted providers available to the plan's or insurer's enrollees or insureds that are also network providers; and,
   c) For each third-party corporate telehealth provider with which it contracts, the types of telehealth services utilized, including information on the gender and age of the enrollee or insureds, and any other information as determined by DMHC and CDI.

2) Requires a health plan/insurer that issues, sells, renews, or offers a plan contract covering dental services, including a specialized health plan contract or health insurance policy covering dental services that offers a service via telehealth through a third-party corporate telehealth provider, to disclose the impact of third-party telehealth visits on the patient's benefit limitations, including frequency limitations and the patient's annual maximum.

3) Excludes specialized health plans and insurance policies that cover dental services from requirements in existing law related to third-party corporate telehealth providers.

4) Defines "third-party corporate telehealth provider" as a corporation that provides dental services exclusively through a telehealth technology platform and has not physical location at which a patient can receive services, and is directly contracted with a health plan, including a specialized health plan that issues, sells, renews, or offers a plan contract covering dental services.

Comments

According to the author, in 2021, AB 457 (Santiago, Chapter 439, Statutes of 2021) was signed into law, which established the Protection of Patient Choice in Telehealth Provider Act, to ensure patients receive adequate and efficient telehealth services. AB 457 provided ease and protections of telehealth services at a time we needed it most and continues to provide the same protections and oversight toward medical plans. Unfortunately, dental plans were exempt from AB 457, despite being encouraged to seek telehealth services at a time COVID-19 was peaking. As a result, telehealth triage appointments, for example, could impact a patient's visit frequency limitations and annual maximum once the patient was referred to an in-person dentist for the care they needed. This bill would simply close the gap created in AB 457 and continue to provide holistic protections to constituents using telehealth for medical and now dental services.

Related/Prior Legislation

AB 457 (Santiago, Chapter 439 Statutes of 2021) established requirements on health plans and insurers that offer telehealth through a third-party corporate telehealth provider, including disclosing the availability of receiving the services on an in-person basis or via telehealth from the enrollee's or insured's primary care provider, treating specialist or other contracting health professional, clinic, or health facility, and, reminders of cost-sharing for services from noncontracted providers.

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

According to the Senate Appropriations Committee:

- DMHC estimates state operations costs of approximately $163,000 in 2022-23, $357,000 in 2023-24, $203,000 in 2024-25, and $167,000 annually thereafter (Managed Care Fund).

- CDI estimates state operations costs of $3,000 in 2022-23, $13,000 in 2023-24, and $3,000 ongoing thereafter (Insurance Fund).

SUPPORT: (Verified 8/12/22)

California Dental Association (source)
Association of Regional Center Agencies
California Association of Orthodontists
California Medical Association
California Society of Pediatric Dentistry
Zocdoc

OPPOSITION: (Verified 8/12/22)

None received

ARGUMENTS IN SUPPORT: The California Dental Association is the sponsor of this bill and writes that the use of telehealth services has significantly increased since the onset of the COVID-19 pandemic. While telehealth has proven to be an effective mode of delivering care, third-party corporate telehealth providers operate in a completely virtual environment and generally have no relationship or interaction with a patient's in-network provider. Dental plans were exempt from the provisions in AB 457, despite also steering patients to use third-party telehealth providers in lieu of in-person services. Telehealth can be a useful tool in dentistry to triage patients experiencing pain or discomfort, but almost no actual dental treatment can be provided remotely. These telehealth triage appointments can impact a patient's visit frequency limitations and annual maximum once the patient is referred to an in-person dentist for the care they need. This bill would remove the dental exemption from statute and direct dental plans to provide a disclosure explaining the impact of third-party corporate telehealth visits on the patient's benefit limitations, including frequency limitations and the patient's annual maximum. This bill is necessary to ensure dental patients have the ability to make an informed decision about how to access their dental care as they do for their medical care.

The Association of Regional Center Agencies writes it is eminently reasonable to require health plans to ensure their enrollees are fully aware of how such services (in this case, through third-party providers for dental services) affect their coverage. People with developmental disabilities are a population that is particularly well-served by telemedicine, particularly in dentistry, in certain cases. Their unique needs make it so that telemedicine can expand their ability to connect to needed care.

ASSEMBLY FLOOR: 75-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Mayes, O'Donnell

Prepared by: Teri Boughton / HEALTH / (916) 651-4111
8/24/22 19:34:28

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

SENATE RULES COMMITTEE
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1998
Author: Smith (R), et al.
Amended: 8/24/22 in Senate
Vote: 21

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

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 75-0, 5/26/22 - See last page for vote

SUBJECT: Community colleges: nonresident tuition fees: Western Undergraduate Exchange

SOURCE: Palo Verde Community College District

DIGEST: This bill (1) authorizes the Board of Governors (BOG) of the California Community Colleges (CCC) to enter into the Western Undergraduate Exchange (WUE) through the Western Interstate Commission for Higher Education (WICHE); (2) allows small community college districts located near a bordering state to charge a lower tuition rate to out-of-state students from WUE participating states; and (3) decreases the per-unit fee for eligible resident students from three to one and one-half times the amount established for resident students.

Senate Floor Amendments of 8/24/22 include double-joining language to avoid chaptering issues with AB 1232 (McCarty).

ANALYSIS:

Existing law:

1) Establishes the CCC, a postsecondary education system in this state, under the administration of the BOG; and, specifies that the CCC consists of community college districts (Education Code (EC) Section 70900).

2) Authorizes the CCC BOG to enter into an interstate attendance agreement with any statewide public agency of another state that is responsible for public institutions of postsecondary education providing the first two years of college instruction, and that is an agency of a state that is a member of WICHE (EC Section 66801).

3) Authorizes a community college district to admit non-resident students and requires that these students be charged a tuition fee that is twice the amount of the fee established for in-state resident students, with certain specified exemptions. State statute prescribes a formula for the calculation of the non-resident fee. State law requires the non-resident tuition fee be increased to a level that is three times the amount of the fee established for in-state resident students (EC Section 76140).

4) Prohibits non-resident students from being reported as full-time equivalent students (FTES) for state apportionment purposes, except where: (a) the CCD has less than 1,500 FTES and is within 10 miles of another state and has a reciprocity agreement with that state; or, (b) if a community college district has between 1,501 and 3,000 FTES and is within 10 miles of another state and has a reciprocity agreement with that state, they can claim up to 100 FTES for state apportionment purposes (EC Section 76140(h)(i)).

5) Exempts no more than 200 students in any academic year from paying non-resident tuition fees if they attend the Lake Tahoe Community College (LTCC) and reside in specified communities in the State of Nevada; and, permits the LTCC District to count these persons as resident FTES for purposes of determining California apportionment funding (EC Section 76140 (a)(6)).

6) Provides that specified nonresident students exempted from paying nonresident tuition may be reported as resident FTES for purposes of state apportionment. These students are required to pay three times the amount of resident fees, and the apportionment rate is adjusted down accordingly (EC Section 76140(j)).

This bill:

1) Authorizes the BOG of the CCC to enter into the WUE through the WICHE.

2) Expands the conditions for which a community college district that has fewer than 1,500 FTES and whose boundaries are within 10 miles of another state can

exempt nonresident students from the nonresident fee requirement to include students from WUE participating states.

3) Expands the conditions for which a community college district that has more than 1,500 FTES but fewer than 3,000 FTES and whose boundary is within 10 miles of another state can exempt nonresident students (capped at 100 FTES per year) to also exempt, as specified, students from states that participate in the WUE.

4) Decreases the per-unit fee that eligible nonresident students must pay, from three times the per-unit fee established for residents, to one and one-half times the per-unit fee established for residents. *Current law requires districts that claim state apportionment for nonresident students from states participating in an exchange program to charge those students (regardless of the exemption) a higher rate than the rate charged to residents*.

5) Stipulates that except as provided, agreements shall contain the provision that no additional state funds shall be required to carry out the provisions of this chapter.

6) Makes technical and clarifying changes to existing law.

Comments

1) *Need for this bill.* According to a letter of support submitted by Lake Tahoe Community College, "AB 1998 (Smith) which would authorize the California Community Colleges Board of Governors to enter the Western Undergraduate Exchange (WUE) through the Western Interstate Commission for Higher Education (WICHE) and ensure that small, rural colleges located near state borders can provide an affordable and high-quality educational pathway for students within their community who reside across state lines.

   "The existing California-Nevada Interstate Attendance Agreement (CNIAA) provides access to LTCC for Nevada students who reside in the Tahoe Basin. Under the provisions of the CNIAA, Nevada residents in the Tahoe Basin can attend LTCC and pay fees below the traditional non-resident tuition rate. CNIAA students pay $93/unit, which is three times the resident tuition rate; as compared to the non-resident tuition rate of $205/unit.

"AB 1998 builds upon the CNIAA by allowing the California Community Colleges to participate in the WUE and offer students from other participating Western States access to the college for a further reduced tuition rate (150% of resident tuition). In return, California students will have similar access to Western State colleges at the same tuition discount. AB 1998 expands opportunities for students who reside near our border community."

2) *Western Interstate Commission for Higher Education*. California, Arizona, Oregon, and Nevada, along with a number of other states and territories (16 total), participate in WICHE. The WICHE oversees three student reciprocal exchange programs allowing students to attend out of state universities at a reduced rate.

   Through its exchange programs, more than 45,000 Western students saved $451 million in academic year 2019-20 through the WUE, Western Regional Graduate Program (WRGP), and Professional Student Exchange Program. These WICHE programs provide significant student savings on nonresident tuition at over 160 Western U.S. public colleges and universities and select private healthcare programs. Additionally, 18,544 California residents saved $196.5 million in academic year 2019-20 through the WUE and WRGP. These WICHE programs provide significant student savings on nonresident tuition at over 170 Western U.S. public colleges and universities.

   However, the CCC system does not participate in the WUE, which is the WICHE exchange program that serves undergraduates. This bill authorizes the BOG of the CCC to enter into the student exchange program through the WICHE.

3) *Western Undergraduate Exchange.* The WUE is an agreement among WICHE's member states and territories, through which 160 participating public colleges and universities provide nonresident tuition at a reduced rate. Through WUE, eligible students can attend an undergraduate program outside their home state and pay no more than 150 percent of that institution's resident tuition rate. Full nonresident tuition rates can exceed 300 percent of resident rates. WUE helps facilitate a fair exchange of students among participating states for purposes of lowering tuition costs for students who would otherwise pay more. Under the agreement, institutions and states can limit the number of students awarded the WUE tuition rate. Under current law, participation in any reciprocity agreement allows small border colleges to exempt eligible students from paying nonresident tuition, if, however, state apportionment is claimed for

those students the college must charge a rate of 300 percent of resident tuition. This bill drops that number to 150 percent, which mirrors the tuition rate agreed upon by states in the WUE program. As a WUE participating state, California students benefit from the same tuition reduction when attending colleges within one of the member western states. The bill would allow a limited number of border CCCs to both participate in WUE's student exchange program while claiming apportionment for a limited number of out-of-state residents enrolled at these CCC.s

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

According to the Senate Appropriation Committee, the Chancellor's Office estimates Proposition General Fund costs for increased apportionments in the low to mid hundreds of thousands of dollars each year. These costs would make up the difference between the tuition currently being paid and the lower tuition that would authorized by this bill. This bill will be limited to the Lake Tahoe and Palo Verde community college districts since they are the only districts located within ten miles of another state border. Additionally, since these districts both have more than 1,500 but fewer than 3,001 FTES as if 2020-21, each district would be permitted to exempt up to 100 FTES per year for out-of-state students from paying nonresident tuition, for a total of 200 FTES. The Chancellor's Office estimates up to $387,800 for this purpose, although actual costs would depend on the number of out-of-state students that enroll and qualify for the fee reduction.

SUPPORT: (Verified 8/24/22)

Palo Verde Community College District (source)
Lake Tahoe Community College

OPPOSITION: (Verified 8/24/22)

None received

ASSEMBLY FLOOR: 75-0, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas,

Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, O'Donnell, Villapudua

Prepared by: Olgalilia Ramirez / ED. / (916) 651-4105
8/26/22 15:41:17

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

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THIRD READING

Bill No: AB 2011
Author: Wicks (D), Bloom (D), Grayson (D), Quirk-Silva (D) and Villapudua (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 6-1, 6/21/22
AYES: Wiener, Caballero, McGuire, Roth, Skinner, Umberg
NOES: Bates
NO VOTE RECORDED: Cortese, Ochoa Bogh

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/29/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: 6-1, 8/11/22
AYES: Portantino, Jones, Laird, McGuire, Wieckowski
NOES: Bates
NO VOTE RECORDED: Bradford

ASSEMBLY FLOOR: 48-11, 5/23/22 - See last page for vote

SUBJECT: Affordable Housing and High Road Jobs Act of 2022

SOURCE: California Conference of Carpenters
California Housing Consortium

DIGEST: This bill authorizes specified housing development projects to be a use by right on specified sites zoned for retail, office, or parking, as specified.

Senate Floor Amendments of 8/25/22 (1) resolve chaptering conflicts with AB 1743 (McKinnor), AB 2094 (Rivas), and AB 2653 (Santiago); (2) exempt development on vacant sites in very high fire severity zones; (3) exempt development within 3,200 feet of an oil or gas refinery; (4) authorize a local government to exempt a site for a 100% affordable housing project if the local government identifies an alternative site, as specified; (5) preclude heights of 65 feet in the coastal zone; and (6) make technical, clarifying changes.

ANALYSIS:

Existing law:

1) Requires a local government to submit an annual progress report (APR) tracking, among other things, its progress towards meeting its regional housing needs.

2) Requires a local jurisdiction to give public notice of a hearing whenever a person applies for a zoning variance, special use permit, conditional use permit, zoning ordinance amendment, or general or specific plan amendment.

3) Requires the board of zoning adjustment or zoning administrator to hear and decide applications for conditional uses or other permits when the zoning ordinance requires.

4) Establishes, pursuant to SB 35 (Wiener, Chapter 366, Statutes of 2017), a streamlined, ministerial approval process, for certain infill multifamily affordable housing projects proposed in local jurisdictions that have not met their regional housing needs allocation (RHNA) allocation.

5) Requires cities and counties, to prepare and adopt a general plan, including a housing element, to guide the future growth of a community.

6) Requires that cities and counties produce, and the Department of Housing and Community Development (HCD) certify, a housing element to help fulfill the state's housing goals. In metropolitan areas, these housing elements are required every eight years. Each housing element must contain:
   a) An assessment of housing needs and an inventory of resources and constraints relevant to meeting those needs;
   b) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing;
   c) An implementation plan that identifies any particular programs or strategies being undertaken to meet their goals and objectives, including their RHNA target; and
   d) An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period.

7) Requires a local government to determine whether each site in the site inventory can accommodate some portion of the jurisdiction's share of the RHNA by income category during the housing element planning period. A

community either must use the "default zoning densities" or "Mullin densities" to determine whether a site is adequately zoned for lower income housing or must provide an alternative analysis. Current Mullin densities:

a) 15 units/acre—cities within non-metropolitan counties; nonmetropolitan counties with metropolitan areas
b) 10 units/acre—unincorporated areas in all non-metropolitan counties not included in the 15 units/acre category
c) 20 units/acre—suburban jurisdictions
d) 30 units/acre—jurisdictions in metropolitan counties

This bill:

1) Establishes the Affordable Housing and High Road Jobs At of 2022.

Affordable Housing Developments in Commercial Zones

2) Provides that a housing development project may submit an application for a housing development that shall be a use by right and subject to a streamlined ministerial review in a zone where office, retail, or parking are a principally permitted use and subject to a streamlined ministerial review if the following apply:
   a) It is a legal parcel that is either in a city where the boundaries include some portion of an urbanized area or urban cluster, or in an unincorporated area, the parcel is wholly within the boundaries of an urbanized area or urban cluster.
   b) At least 75% of the perimeter of the site adjoins parcels that are developed with urban uses.
   c) It is not on a site or adjoined to any site where more than 1/3 of the square footage of the site is dedicated to industrial use.
   d) It is not on a specified environmentally sensitive site.
   e) For a vacant site: (i) it does not contain tribal cultural resources that could be affected by the development that were found prior to a tribal consultation and the effects of which cannot be mitigated; and (ii) is not located in a very high fire hazard severity zone.
   f) The project has at least 2/3 of the square footage designated for residential use.
   g) The residential density will meet or exceed the Mullin Densities.
   h) The project complies with specified objective zoning standards.
   i) The development proponent completes a Phase 1 environmental assessment, as specified.
   j) None of the housing on the site are located within 500 feet of a freeway.

k) None of the housing on the site is located within 3,200 feet of a facility that actively extracts or refines oil or natural gas.

3) Requires a project to meet the following affordability requirements:
   a) 100% of the units are affordable to lower income households.
   b) The units are subject to a recorded deed restriction for 55 years for rental and 45 years for owner-occupied units.

Mixed-Income Housing Developments Along Commercial Corridors

4) Provides that a housing development project may submit an application for a housing development that shall be a use by right within a zone where office, retail, or parking are a principally permitted use and shall be subject to a streamlined ministerial review if the proposed housing development abuts a commercial corridor and has a frontage along a commercial corridor of a minimum of 50 feet, is a site that is less than 20 acres, and meets the following requirements:
   a) It is a legal parcel that is either in a city where the boundaries include some portion of an urbanized area or urban cluster, or in an unincorporated area, the parcel is wholly within the boundaries of an urbanized area or urban cluster.
   b) The site would not require the demolition of housing subject to a recorded covenant, rent control, or occupied by tenants in the last 10 years.
   c) The site would not require the demolition of a historic structure placed on a national, state, or local historic register.
   d) The property contains one to four units.
   e) The property is vacant and zoned for housing but not for multifamily residential use.
   f) It is not on a site or adjoined to any site where more than 1/3 of the square footage of the site is dedicated to industrial use.
   g) It is not on a specified environmentally sensitive site.
   h) For a vacant site: (i) it does not contain tribal cultural resources that could be affected by the development that were found prior to a tribal consultation and the effects of which cannot be mitigated; and (ii) is not located in a very high fire hazard severity zone.
   i) The project is at least 2/3 of the square footage is designated for residential use.
   j) The project complies with specified objectives zoning standards.
   k) The project completes a phase I environmental assessment, as specified.
   l) None of the housing on the site are located within 500 feet of a freeway.

m) None of the housing on the site is located within 3,200 feet of a facility that actively extracts or refines oil or natural gas.

5) Requires a project to meet the following affordability requirements:
   a) For rental units either of the following: (i) 15% of the units are affordable to lower-income households for 55 years; or (ii) 8% of the units for very low-income households and 5% for extremely low income households for 55 years.
   b) For owner-occupied units, 30% of the units affordable to moderate-income or 15% affordable to lower-income households for 45 years.

6) Requires that if the local government has an affordable housing requirement, the housing development project shall comply with all of the following:
   a) The development project shall include the higher percentage between this bill and the local housing requirement;
   b) The project shall meet the lowest income targeting in either policy;
   c) If the local requirement requires at least 15% of the units for lower income, but does not require units affordable to extremely low-income or very low-income households, the development shall do both of the following:
      i) Include 8% of the units for very low income households, and 5% for extremely low income households, and
      ii) Subtract 15% from the percentage required by the local policy.

7) Requires that, if a local government has an affordable housing requirement the housing development project shall comply with both of the following:
   a) The project shall include the higher percentage of affordable units between this bill and the local requirement;
   b) The project shall meet the lowest income targeting in either policy.

8) Provides that the following density requirements shall apply:
   a) In a metropolitan jurisdiction, the development shall meet or exceed the greater of the following:
      i) The residential density allowed on the parcel by the local government;
      ii) For sites of less than one acre, 30 units per acre;
      iii) For sites greater than one acre located on a commercial corridor of less than 100 feet, 40 units per acre;
      iv) For sites of one acre in size or greater located on a commercial corridor of 100 feet or greater in width, 60 units per acre; or
      v) For sites within ½ mile of a major transit stop, 80 units per acre.
   b) In a nonmetropolitan jurisdiction, the development shall meet or exceed the greater of the following:

i) The residential density allowed on the parcel by the local government;
ii) For sites of less than one acre, 20 units per acre;
iii) For sites greater than one acre located on a commercial corridor of less than 100 feet, 30 units per acre;
iv) For sites of one acre in size or greater located on a commercial corridor of 100 feet or greater in width, 50 units per acre; or
v) For sites within ½ mile of a major transit stop, 70 units per acre.

9) Provides that the height shall be the greater of the following:
   a) The height allowed on a parcel by the local government;
   b) For sites located on a commercial corridor of less than 100 feet in width, 35 feet;
   c) For sites located on a commercial corridor of 100 feet or greater in width, 45 feet;
   d) For sites within ½ mile of a major transit stop and within a city with a population of greater than 100,000, 65 feet. This requirement does not apply in the coastal zone.

10) Provides that the following setback requirements apply:
   a) For the portion that fronts a commercial corridor: (i) no setbacks are required; (ii) all parking must be set back at least 25 feet; and (iii) on the ground floor, a building must be within 10 feet of the property line for at least 80% of the frontage.
   b) For the portion that fronts a side street, a building or buildings must abut within 10 feet of the property line for at least 60% of the frontage.
   c) For the portion that abuts an adjoining property but also abuts the same commercial corridor, no setbacks required unless the adjoining property contains a residential use, as specified.
   d) For the portion of the street line that does not abut a commercial corridor, a side street, or an adjoining property that also abuts the same commercial corridor as the property, the following shall occur:
      i) Along property lines that abut a property that contains a residential use, the following shall occur:
         (1) The ground floor shall be set back at 10 feet.
         (2) Starting on the second floor, each subsequent floor shall be stepped back an amount equal to seven feet multiplied by the floor number.
         (3) Along property lines that abut a property that does not contain a residential use, the development shall be set back 15 feet.

11) Provides that no parking is required except for bike parking, electrical vehicle equipment installed, or parking spaces accessible for persons with disabilities.

Additional Provisions

12) Defines "neighborhood plan" as a specific plan, area plan, precise plan, or master plan that has been adopted by a local government. Provides that if the site is within a "neighborhood plan," the site satisfies both of the following:
    a) As of January 1, 2022, there was a neighborhood plan applicable to the site that permitted multifamily housing development on the site; and
    b) As of January 1, 2024, there was a neighborhood plan applicable to the site that permitted multifamily housing development on the site and all of the following occurred: (i) a notice was issued before January 1, 2022; (ii) the neighborhood plan was adopted on or after January 1, 2022, and before January 1, 2024, and (iii) the environmental review was completed before January 1, 2024.

13) Authorizes a local government to exempt a parcel from the requirements in this bill before a development proponent submits an application if the local government makes written findings, as specified.

14) Requires the development proponent to provide written notice of the pending application to each eligible tenant located on the site and provide relocation assistance as specified. The funds shall be used to pay for the business to relocated or for costs of a new business.

15) Permits a local government to adopt an ordinance to implement the provisions of this bill, and exempts that ordinance from the California Environmental Quality Act.

16) Requires a local agency to include in its APR data related to this bill.

17) Requires HCD to conduct two studies on the outcomes of this bill, as specified.

18) Establishes July 1, 2023, as the implementation date and imposes a sunset date of January 1, 2033.

Labor Standards

19) Provides that a proponent of a development project approved pursuant to the provisions of this bill must require, in contracts with construction contractors, that all of the labor provisions of this bill's standards will be met in project construction. The proponent must certify this to the local government;

20) Provides that a development that is not in its entirety a public work, as specified, must be subject to all of the following wage provisions:

a) All construction workers employed in the execution of the development must be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as specified, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate;
b) The development proponent must ensure that the prevailing wage requirement is included in all contracts for the performance of the work for those portions of the development that are not a public work; and
c) All contractors and subcontractors for those portions of the development that are not a public work must maintain and verify payroll records, as specified, and make those records available for inspection and copying. This requirement does not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure.

21) Provides that the obligation of the contractors and subcontractors to pay prevailing wages pursuant to this bill are subject to the following enforcement provisions: (a) they may be enforced by The Labor Commissioner, an underpaid worker, and a joint labor-management committee through a civil action, as specified; and (b) these enforcement provisions do not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure.

22) Provides that the requirement that the employer pay prevailing wages does not apply to those portions of development that are not a public work if otherwise provided in a bona fide collective bargaining agreement covering the worker;

23) Provides that for a development of 50 or more housing units, the development proponent must require in contracts with construction contractors, and must certify to the local government, that each contractor of any tier who will employ construction craft employees or will let subcontracts for at least 1,000 hours must ensure all of the following:
a) A contractor with construction craft employees must either participate in an apprenticeship program approved by the State of California Division of Apprenticeship Standards, as specified, or request the dispatch of

apprentices from a state-approved apprenticeship program, as specified. A contractor without construction craft employees must show a contractual obligation that its subcontractors meet these requirements.

b) Each contractor with construction craft employees must make health care expenditures for each employee, as specified. A contractor without construction craft employees must show a contractual obligation that its subcontractors comply with this requirement. Qualifying expenditures are credited toward compliance with prevailing wage payment requirements.
c) A construction contractor is deemed in compliance with the requirements of A and B, above, if it is signatory to a valid collective bargaining agreement that requires utilization of registered apprentices and expenditures on health care for employees and dependents; and
d) The development proponent is subject to reporting requirements, as specified.

24) Resolves chaptering conflicts with AB 1743 (McKinnor), AB 2094 (Rivas), and AB 2653 (Santiago).

Background

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. Seven elements are mandated by state law: 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, which is completed through the RHNA process.

Zoning ordinances generally. 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. A zoning ordinance may be subject to the California Environmental Quality Act (CEQA) if it will have a significant impact upon the environment. The adoption of ADU ordinances, however, are explicitly exempt from CEQA. There

are also some several statutory exemptions that provide limited environmental review for projects that are consistent with a previously adopted general plan, community plan, specific plan, or zoning ordinance.

In addition, before building new housing, housing developers must obtain one or more permits from local planning departments and must also obtain approval from local planning commissions, city councils, or county board of supervisors. Some housing projects can be permitted by city or county planning staff ministerially or without further approval from elected officials. Projects reviewed ministerially, or by-right, require only an administrative review designed to ensure they are consistent with existing general plan and zoning rules, as well as meet standards for building quality, health, and safety. Most large housing projects are not allowed ministerial review. Instead, these projects are vetted through both public hearings and administrative review. Most housing projects that require discretionary review and approval are subject to review under the CEQA, while projects permitted ministerially generally are not.

Comments

1) *COVID-19 and impacts to brick-and-mortar retail*. According to an April 24, 2020 brief published by McKinsey and Company, the onset of COVID-19 has aggravated the existing challenges that the retail sector faces, including (a) a shift to online purchasing over brick-and-mortar sales; (b) customers seeking safe and healthy purchasing options; (c) increased emphasis on value for money when purchasing goods; (d) movement towards more flexible and versatile labor; and (e) reduced consumer loyalty in favor of less expensive brands.

   With several large retailers such as Neiman Marcus, J.C. Penney, J. Crew, and Pier 1 filing for bankruptcy, store closings have already been announced or are expected in the future. According to the research and advisory firm Coresight Research, 2020 saw the closures of 8,741 stores, and 2021 could bring as many as 10,000 additional closures. The investment firm UBS estimates that by 2025, 100,000 stores in the United States will close as online sales grow from 15% to 25% of total retail sales.

   This bill helps facilitate the production of more housing by providing that specified housing developments would be a use by right in a zone where office, retail, or parking are a principally permitted use. Eligible infill sites must be in an urbanized area or urban cluster, not near a freeway or a, and not adjoined to a site with more than 1/3 of the uses are dedicated to industrial use. Streamlined approval is limited to projects with 100% of the units affordable to lower income families, subject to Mullin densities; approval is not limited to

any specified site size. On sites that are less than 20 acres and on a commercial corridor, mixed income projects are eligible for streamlined approval. These projects must contain at least 15% of the units affordable to lower income renters, or a combination of 8% very low-income and 5% extremely low income, or alternatively, ownership units in which to 15% are affordable to lower income households or 30% are affordable to moderate income households. These projects are subject to specified density requirements depending on the size of the site and size of the commercial corridor, minimum height requirements depending on the size of the commercial corridor, specified setback requirements, and no parking minimums except for bike parking, electrical vehicle equipment or spaces for persons with disabilities. This bill takes effect on July 1, 2023 and will sunset on January 1, 2033.

2) *Senate Appropriations Amendments*. Author's amendments taken in the Senate Appropriations Committee make the following changes:
   a) Imposes a sunset date of January 1, 2033;
   b) Delays the enactment date by 6 months (beginning July 1, 2023);
   c) Requires developers to provide relocation assistance for displaced small businesses;
   d) Directs HCD to perform at least two studies of the outcomes of the bill;
   e) Requires rental projects to include either 15% lower income units or 8% very low and 5% extremely low, and associated conforming changes;
   f) Requires a specified environmental assessment and mitigation of any hazards identified;
   g) Excludes housing within 2,500 feet of an oil or gas extraction facility or refinery;
   h) Allows local governments to adopt an ordinance to implement the bill, which is not subject to CEQA; and
   i) Makes other technical and clarifying changes.

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

According to the Senate Appropriations Committee:

- HCD estimates ongoing costs of $204,000 annually for 1.0 PY of staff to coordinate with local governments, provide guidance and technical assistance, and manage enforcement activities. HCD estimates additional costs of $102,000 in contract costs each year in 2023-24 and 2025-25 to develop and revise guidelines for developers and local jurisdictions related to the new streamlining and ministerial approval provisions. (General Fund)

- The Department of Industrial Relations estimates costs of approximately $3.8 million in the first year and $3.6 million annually ongoing for oversight and enforcement activities related to prevailing wage and apprenticeship standards on projects constructed pursuant to the provisions of this bill. There would also be penalty revenue gains, potentially in the hundreds of thousands of dollars annually, to partially offset these costs. Actual costs and penalty revenues would depend upon the number of qualifying projects constructed under this bill and the number of complaints and referrals to the Division of Labor Standards and Enforcement that require enforcement actions, investigations, and appeals. (State Public Works Enforcement Fund)

- Unknown local mandated costs. While the bill could impose new costs on local agencies to revise planning requirements for certain developments, and providing for streamlined and expedited review of those projects, these costs are not state-reimbursable because local agencies have general authority to charge and adjust planning and permitting fees to cover their administrative expenses associated with new planning mandates. (Local funds)

SUPPORT: (Verified 8/24/22)

California Conference of Carpenters (co-source)
California Housing Consortium (co-source)
AARP
Abundant Housing LA
Affirmed Housing
Alameda County Democratic Party
All Home
Alta Housing
American Planning Association, California Chapter
Bay Area Council
Black Leadership Council
Bridge Housing Corporation
Brotherhood Crusade
Burbank Housing Development Corporation
California Apartment Association
California Association of Local Housing Finance Agencies
California Coalition for Rural Housing
California Community Builders
California Community Economic Development Association
California Forward Action Fund
California Housing Partnership

California School Employees Association
California YIMBY
Carpenters Local Union 22, 46, 152, 180, 405, 505, 605, 562, 619, 661, 701, 713, 714, 721, 805, 909, 951, 1109, 1599, 1789, and 2236
Carpenters Women's Auxiliary 001, 007, 66, 91, 101, 417, 710, and 1904
Central City Association
Central Valley Urban Institute
Cities of Berkeley, Maywood, and Oakland
CivicWell
Clinica Romero
Community Coalition
Community Corporation of Santa Monica
Congress for The New Urbanism
Construction Employers' Association
Council of Infill Builders
Councilmember Zach Hilton, City of Gilroy
Destination: Home
Drywall Lathers Local 9109
Drywall Local Union 9144
East Bay Asian Local Development Corporation
East Bay for Everyone
East Bay YIMBY
Eden Housing
Endangered Habitats League
Enterprise Community Partners, Inc.
Fieldstead and Company, Inc.
Generation Housing
Govern for California
Greenbelt Alliance
Housing Action Coalition
Housing California
ICON
IKAR
Lathers Local 68l
League of Women Voters of California
Linc Housing
LISC San Diego
Los Angeles Business Council
Los Angeles County Young Democrats
Making Housing and Community Happen

Mayor Jesse Arreguín, City of Berkeley
Mayor John Bauters, City of Emeryville
Mayor Rick Bonilla, City of San Mateo
Mayor Ron Rowlett, City of Vacaville
Mercy Housing
Merritt Community Capital Corporation
MidPen Housing Corporation
Millwrights Local 102
Modular Installers Association
Monterey Bay Economic Partnership
Mountain View YIMBY
New Way Homes
Non Profit Housing Association of Northern California
Nor Cal Carpenters Union
Novin Development Corp.
Peninsula for Everyone
People for Housing - Orange County
Pile Drivers Local 34
Richmond Community Foundation
SALEF
San Diego Housing Federation
San Francisco Bay Area Planning & Urban Research Association
San Francisco Bay Area Rapid Transit District
San Francisco Housing Development Corporation
Sand Hill Property Company
Santa Cruz YIMBY
Satellite Affordable Housing Associates
SEIU California
Sequoia Riverlands Trust
Sierra Business Council
Silicon Valley Community Foundation
Silicon Valley Leadership Group
Southern California Association of Nonprofit Housing
Southern California Contractors Association
Southwest Regional Council of Carpenters
Southwest Regional Council of Carpenters Local 562
Southwest Regional Council of Carpenters Local 721
SV@Home Action Fund
The Greenlining Institute
The John Stewart Company

The Kennedy Commission
The Los Angeles Coalition for The Economy & Jobs
The Pacific Companies
The San Francisco Foundation
The Two Hundred
United Latinos Action
United Lutheran Church of Oakland
United Ways of California
Urban Environmentalists
Urban League, San Diego County
USA Properties Fund, Inc.
Ventura County Clergy and Laity United for Economic Justice
Wall and Ceiling Alliance
West Angeles Community Development Corporation
Wildlands Network
YIMBY Action
YIMBY Democrats of San Diego County

OPPOSITION: (Verified 8/24/22)

Berkeley Tenants Union
California Cities for Local Control
California Community Economic Development Association
California Labor Federation, AFL-CIO
California Nurses Association
California Reinvestment Coalition
California Rural Legal Assistance Foundation
California State Association of Electrical Workers
California State Pipe Trades Council
Calle 24 Latino Cultural District
Care Community Land Trust
Catalysts for Local Control
Cities of Arcata, Beverly Hills, Bishop, Brentwood, Burbank, Clovis, Corona, Cupertino, Del Mar, El Centro, Fairfield, Fillmore, Fort Bragg, Fortuna, Fremont, Glendale, Glendora, Huntington Beach, Indian Wells, La Canada Flintridge, La Mirada, La Puente, Laguna Beach, Laguna Hills, Menifee, Newport Beach, Novato, Ontario, Orange, Palm Desert, Pleasant Hill, Pleasanton, Rancho Palos Verdes, Redlands, Ripon, Rohnert Park, Rolling Hills Estates, Rosemead, San Clemente, Santa Maria, Solana Beach, Sunnyvale, Torrance, Upland, Vista, and Whittier
City/County Association of Governments of San Mateo County

Communities for a Better Environment
Council of Community Housing Organizations
District Council of Iron Workers of The State of California and Vicinity
Esperanza Community Housing
Hills 2000 Friends of The Hills
Housing Now!
Leadership Counsel for Justice and Accountability
Livable California
League of California Cities, Los Angeles County Division
Marin County Council of Mayors & Councilmembers
Mission Economic Development Agency
Mission Street Neighbors
People Organizing to Demand Environmental & Economic Rights
Physicians for Social Responsibility – Los Angeles
PolicyLink
Public Advocates
Public Interest Law Project
Santa Monica Residents Cross-City
Save Lafayette
Soma Pilipinas Filipino Cultural Heritage District
South Bay Cities Council of Governments
State Building & Construction Trades Council of California
Town of Truckee
Tri-Valley Cities of Dublin, Livermore, Pleasanton, San Ramon, and Town of Danville
Urban Habitat
Western Center on Law and Poverty
Western States Council Sheet Metal, Air, Rail and Transportation
Young Community Developers
Yuba County Board of Supervisors
Three individuals

ARGUMENTS IN SUPPORT: According to the author, this bill "combines some of the best ideas advanced in the Legislature over the last several years for promoting affordable housing development with a requirement to create 'high road' jobs. To effectively take on our state's housing issues, I firmly believe we need to do both. This legislation gives us all the opportunity to work together toward our shared goal: Building more affordable housing for struggling Californians, while also growing the thriving, high-wage construction workforce every community needs."

ARGUMENTS IN OPPOSITION: According to the State Building & Construction Trades Council and affiliated groups, they "remain opposed to any effort that would create a statewide right to develop mostly market-rate and luxury housing without, at a very minimum, basic community protections, including the requirement to use a skilled and trained workforce and pay area prevailing wages."

The cities in opposition to this bill argue that it would remove local control and the ability of cities to determine the adequacy of sites for housing and the ability to provide affiliated infrastructure. They also express concern over a potential reduction in tax revenue from the loss of commercial properties.

A coalition of low-income housing and equity organizations are opposed unless amended to (1) provide deeper targeted affordability levels commensurate with the benefits to developers, only grant density bonus benefits if the developer includes additional affordable units, and affordability requirements above existing inclusionary ordinances; (2) limiting the benefits in the bill to high opportunity areas to ensure new development does not exacerbate the risk of gentrification and displacement in vulnerable communities, (3) protect and build upon existing local programs to increase housing production while protecting residents from displacement; and (4) exempt sites with existing small businesses.

ASSEMBLY FLOOR: 48-11, 5/23/22
AYES: Bauer-Kahan, Bennett, Bloom, Bryan, Calderon, Carrillo, Cervantes, Cooper, Cunningham, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Levine, Mathis, Mayes, McCarty, Medina, Mullin, Quirk, Quirk-Silva, Ramos, Reyes, Robert Rivas, Rodriguez, Salas, Santiago, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Aguiar-Curry, Bigelow, Choi, Cooley, Nguyen, Patterson, Seyarto, Stone, Valladares, Voepel, Waldron
NO VOTE RECORDED: Arambula, Berman, Boerner Horvath, Mia Bonta, Chen, Davies, Gallagher, Gray, Irwin, Lee, Low, Maienschein, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Luz Rivas, Blanca Rubio, Smith

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
8/26/22 15:41:17

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

SENATE RULES COMMITTEE AB 2030
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2030
Author: Arambula (D)
Introduced: 2/14/22
Vote: 21

SENATE ELECTIONS & C.A. COMMITTEE: 4-1, 6/21/22
AYES: Glazer, Hertzberg, Leyva, Newman
NOES: Nielsen

SENATE GOVERNANCE & FIN. COMMITTEE: 4-1, 6/29/22
AYES: Caballero, Durazo, Hertzberg, Wiener
NOES: Nielsen

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 56-20, 5/26/22 - See last page for vote

SUBJECT: County of Fresno Citizens Redistricting Commission

SOURCE: Dolores Huerta Foundation

DIGEST: This bill establishes the County of Fresno Citizens Redistricting Commission (CFCRC) and requires the CFCRC to establish the supervisorial district lines for Fresno County following the decennial census, as specified.

ANALYSIS:

Existing law:

1) Requires the board of supervisors of each county, following each federal decennial census, to adopt boundaries for all of the supervisorial districts of the county so that the supervisorial districts are substantially equal in population as required by the United States Constitution. Requires population equality to be

based on the total population of residents of the county as determined by the most recent federal decennial census for which specified redistricting data are available, as specified.

2) Requires the board of supervisors to adopt supervisorial district boundaries using a specified criteria and process.

3) Authorizes a county, general law city, school district, community college district, or special district to establish an independent redistricting commission, an advisory redistricting commission, or a hybrid redistricting commission by resolution, ordinance, or charter amendment, subject to certain conditions and as specified.

4) Establishes a procedure for a government of a county to adopt a charter by a majority vote of its electors voting on the question. Generally provides greater autonomy over county affairs to counties that have adopted charters. Provides that counties that have adopted charters are subject to statutes that relate to apportioning population of governing body districts.

5) Establishes a Citizens Redistricting Commission in Los Angeles County and an Independent Redistricting Commission in San Diego County, and charges the commissions with adjusting districts of supervisorial districts after each decennial federal census, as specified.

This bill:

1) Provides for the creation of the CFCRC, and tasks the CFCRC with adjusting the boundary lines of Fresno County's supervisorial districts in the year following the year in which the decennial federal census is taken. Requires the CFCRC to be created no later than December 31, 2030, and in each year ending in the number zero thereafter.

2) Requires the CFCRC to consist of 14 members who meet specified requirements. Requires at least one CFCRC member to reside in each of the five existing county supervisorial districts. Requires the political party preferences of the CFCRC members to be as proportional as possible to the total number of voters who are registered with each political party in Fresno County, or who decline to state or do not indicate a party preference, as determined by registration at the most recent statewide election, as specified.

3) Establishes a process for interested individuals to submit an application to become a CFCRC member, as specified. Creates a process for the county elections official to narrow the application pool, as specified.

4) Requires, at a regularly scheduled meeting of the board of supervisors, the Auditor-Controller of Fresno County to conduct a random drawing to select one commissioner from each of the five subpools established by the county elections official, and to then conduct a random drawing from all of the remaining applicants to select three additional commissioners.

5) Requires the eight selected commissioners to review the remaining names in the subpools of applicants and to appoint six additional applicants to the CFCRC, as specified.

6) Provides the term of office of each member of the CFCRC expires upon the appointment of the first member of the succeeding commission.

7) Requires the board of supervisors to provide for reasonable funding and staffing for the CFCRC. Requires each CFCRC member to be a designated employee for purposes of the conflict of interest code adopted by Fresno County, as specified.

8) Provides that nine members of the CFCRC constitute a quorum and that nine or more affirmative votes are required for any official action.

9) Prohibits the CFCRC from retaining a consultant who would not be qualified as a CFCRC applicant due to any of the disqualifying criteria, as specified.

10) Requires the CFCRC to establish single-member supervisorial districts for the board of supervisors pursuant to a mapping process using a specified criteria and requirements. Requires the CFCRC to adopt a redistricting plan adjusting the boundaries of the supervisorial districts and to file the plan with the county elections official by the map adoption deadline set forth in existing law for county supervisorial maps, as specified. Requires the CFCRC to issue, with the final map, a report that explains the basis on which the CFCRC made its decisions in achieving compliance with the specified criteria and requirements provided by this bill.

11) Requires the CFCRC, prior to drawing a draft map, to conduct at least seven public hearings, to take place over a period of no fewer than 30 days, with at least one public hearing held in each supervisorial district, as specified.

12) Requires the CFCRC, after drawing the draft maps, to post the map for public comment on Fresno County's website and conduct at least two public hearings to take place over a period of no fewer than 30 days.

13) Requires the CFCRC to establish and make available to the public a calendar of all public hearings, requires the hearings to be scheduled at various times and days of the week to accommodate a variety of work schedules to reach as large an audience as possible, and requires the CFCRC to arrange for the live translation of a hearing if requested, as specified. Requires the CFCRC to post the agenda for the public hearings at least seven days before the hearings. Requires the agenda for a meeting conducted after the CFCRC has drawn a draft map to include a copy of that map.

14) Requires the CFCRC to take steps to encourage county residents to participate in the redistricting public review process, as specified.

15) Requires the board of supervisors to take steps necessary to ensure that a complete and accurate computerized database is available for redistricting, and that procedures provide the public with access to redistricting data and software equivalent to what is available to the CFCRC members, as specified.

16) Requires all records of the CFCRC relating to redistricting, and all data considered by the CFCRC in drawing a draft map or the final map, to be public records.

17) Provides for various prohibitions for CFCRC members beginning from the date of appointment to the CFCRC, as specified.

18) Makes findings and declarations that a special law is necessary because of the unique circumstances facing Fresno County.

Background

Local Redistricting and Previous Legislation. Prior to 2017, state law generally permitted a county or a city to create an advisory redistricting commission, but did not expressly permit local jurisdictions to create commissions with the authority to establish district boundaries. The authority to establish district boundaries for a

local jurisdiction generally was held by the governing body of that jurisdiction. Additionally, while charter cities could establish redistricting commissions that had the authority to establish district boundaries, charter counties did not have that authority in the absence of express statutory authorization.

In 2016, the Legislature passed and Governor Brown signed SB 1108 (Allen, Chapter 784, Statutes of 2016). SB 1108 permitted a county or a general law city to establish an advisory or independent redistricting commission, subject to certain conditions. SB 1108 generally provided cities and counties with the discretion to determine the structure and membership of an advisory or independent redistricting commission. However, it did establish minimum qualifications for commission membership. While SB 1108 imposed few restrictions and requirements on advisory commissions, it did subject members of independent commissions to extensive eligibility requirements and post-service restrictions.

At the same time that SB 1108 was being considered in the Legislature, SB 958 (Lara, Chapter 781, Statutes of 2016) was signed into law and required the establishment of a Citizens Redistricting Commission in Los Angeles County and charged it with adjusting the boundaries of supervisorial districts after each decennial federal census, as specified.

In 2017, the Legislature approved and Governor Brown signed AB 801 (Weber, Chapter 711, Statutes of 2017) replaced San Diego County's Independent Redistricting Commission established by SB 1331 (Kehoe, Chapter 508, Statutes of 2012) with a commission similar to the commission established by SB 958.

In 2018, the Legislature passed and Governor Brown signed SB 1018 (Allen, Chapter 462, Statutes of 2018). SB 1018 extended the authority to adopt redistricting commissions to school districts, community college districts, and special districts. SB 1018 also allowed for the creation of hybrid commissions where a commission recommends to a legislative body multiple maps for that legislative body and legislative body must adopt one of those maps without modification, unless certain conditions are met. Furthermore, SB 1018 relaxed some of the eligibility requirements for members of independent commissions and eased one of the post-service restrictions on those members in an effort to expand the pool of individuals who are available to serve on such commissions.

Who Draws the Lines in Fresno County? The Fresno County Board of Supervisors is charged with redrawing the boundary lines for supervisorial districts after each decennial federal census using specified criteria outlined in existing law.

According to the Fresno County's website, Fresno County established an Advisory Redistricting Commission (ARC) for the 2021 redistricting process that was responsible for developing the 2021 decennial redistricting map recommendations for consideration by the Fresno County Board of Supervisors. The ARC held public hearings to receive public input, drafted proposed maps, and presented their recommendations for the Fresno County Board of Supervisors to consider before adopting the final redistricting maps.

Comments

1) According to the author, Assembly Bill 2030 will put Fresno voters first by removing the inherent conflict of interest when Board of Supervisors are involved in decisions on redrawing political district lines. AB 2030 will establish the County of Fresno Citizens Redistricting Commission to draw district boundaries and create a truly independent process in the next redistricting cycle in 2030.

   The need for AB 2030 was evidenced in the public outcry during the process of redrawing district lines in Fresno County. Although an advisory committee was appointed by the Board of Supervisors, many aspects of the process continued to have evidence of political influence.

Related/Prior Legislation

AB 1307 (Cervantes, 2022) creates a Citizens Redistricting Commission in Riverside County, as specified.

AB 2494 (Salas, 2022) creates a Citizens Redistricting Commission in Kern County, as specified.

SB 1269 (Allen, 2022) makes various changes to the composition and operations of the Los Angeles County Citizens Redistricting Commission.

SB 139 (Allen, 2019) would have required a county with a population of 400,000 or more to establish an independent redistricting commission to adopt the county supervisorial districts after each federal decennial census, as specified. This would have included Fresno County. Governor Newsom vetoed SB 139 stating, in part:

> *While I agree these commissions can be an important tool in preventing gerrymandering, local jurisdictions are already authorized to establish*

independent, advisory or hybrid redistricting commissions. Moreover, this measure constitutes a clear mandate for which the state may be required to reimburse counties pursuant to the California Constitution and should therefore be considered in the annual budget process.

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

According to the Senate Appropriations Committee:

- This bill would not have a fiscal impact to the Secretary of State's Office.

- By requiring Fresno County to create and operate a redistricting commission as specified, this bill creates a state-mandated local program. To the extent the Commission on State Mandates determines that the provisions of this bill create a new program or impose a higher level of service on Fresno County, the County could claim reimbursement of those costs (General Fund). The magnitude of these costs is unknown, but minimally in the hundreds of thousands on a decennial basis.

SUPPORT: (Verified 8/12/22)

Dolores Huerta Foundation (source)
American Civil Liberties Union California Action
California Environmental Voters
California Labor Federation
Fresno-Madera-Tulare-Kings, Central Labor Council, AFL-CIO
League of Women Voters of California
League of Women Voters of Fresno
Planned Parenthood Mar Monte
Services, Immigrant Rights and Education Network

OPPOSITION: (Verified 8/12/22)

California State Association of Counties
County of Fresno

ARGUMENTS IN SUPPORT: In a letter supporting AB 2030, the California Labor Federation states, in part, the following:

District maps should be drawn by an independent commission to help eliminate potential biases. The current system allows whatever political party is in power at the time to manipulate the map to favor their own candidates. Letting

politicians redraw their own district boundaries is a gross conflict of interest, and yet it is perfectly legal.

In our elections, every voice should be heard, and every vote should count equally. AB 2030 will ensure that the voices in Fresno County accurately reflect the community and that the supervisorial districts are drawn fairly.

ARGUMENTS IN OPPOSITION: In a letter opposing AB 2030, the County of Fresno states, in part, the following:

AB 2030 proposes to usurp local control and discretion of the County of Fresno's elected representatives, while other counties with similar demographics and population base would maintain local control and discretion over the redistricting process. Existing law already provides local jurisdictions with the option of establishing an independent redistricting commission to change district boundaries. Future elected representatives should be allowed to exercise their discretion to establish a redistricting process that meets the particular needs of the County and reflects local priorities and the values of all County residents.

ASSEMBLY FLOOR: 56-20, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Scott Matsumoto / E. & C.A. / (916) 651-4106
8/13/22 16:24:05

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

SENATE RULES COMMITTEE AB 2046
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2046
Author: Medina (D) and Gray (D), et al.
Amended: 8/22/22 in Senate
Vote: 21

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

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 74-0, 5/26/22 - See last page for vote

SUBJECT: University of California, Merced, and University of California, Riverside

SOURCE: Author

DIGEST: This bill requires moneys appropriated by the Legislature in the annual Budget Act during the 2022-23 to 2024-25 fiscal years to directly support campus expansion projects and University of California (UC) climate initiatives at the UC, Riverside (UCR) and the UC, Merced (UCM) supplement and not supplant any current or future funding.

Senate Floor Amendments of 8/22/22 remove provisions that establish an independent fund for purposes of allocating moneys to UC for projects at UCR and UCM, and instead provide for a direct appropriation from the Budget Act made for these purposes comply with the bill's provisions.

ANALYSIS:

Existing law:

1) Establishes the UC as a public trust to be administered by the Regents of the UC; and, grants the Regents full powers of organization and government,

subject only to such legislative control as may be necessary to insure security of its funds, compliance with the terms of its endowments, statutory requirements around competitive bidding and contracts, sales of property and the purchase of materials, goods and services (Article IX, Section (9)(a) of the California Constitution).

2) Authorizes the UC to proceed with General Fund capital expenditures, as specified, upon signed certification that during the subsequent fiscal year and each year thereafter, that all cleaning, maintenance, grounds keeping, food service or other work traditional performed are by UC employees at each facility, building or property. This excludes construction work and other types of work, including carpentry, electrical, plumbing, glazing, painting and other craft work designed to preserve, protect or keep facilities in a safe and usable condition. Current law also specifies that starting with the 2021-22 fiscal year, the Department of Finance shall approve each new and ongoing capital expenditure only after the UC has demonstrated compliance with the above. (EC Section 92495 et. al.)

This bill:

1) Requires moneys appropriated by the Legislature in the annual Budget Act during the 2022-23 to 2024-25 fiscal years to directly support one or both of the following at UCR, and UCM supplement and not supplant any current or future funding:

   a) Campus expansion projects, which may include, but are not limited to, related capital projects.

   b) UC climate initiatives, which may include, but are not limited to, related capital projects.

2) Provides that projects that receive funding, pursuant to the bill, are a public work for which prevailing wages shall be paid.

3) Requires, for projects that receive funding, as provided, the UC obtain an enforceable commitment from any contractor performing work in an apprenticeable occupation in the building and construction trades that the contractor and its subcontractors at every tier will individually use a skilled and trained workforce to complete the work. This bill provides that this is not applicable if all contractors and subcontractors at every tier performing the work will be bound by a project labor agreement that requires the use of a

skilled and trained workforce and provides for enforcement of that obligation through an arbitration procedure.

4) Authorizes the use of moneys appropriated pursuant to the bill for capital expenditures or projects only if, for any affected project, facility, building, or other property, the UC complies with the specified requirements in current law relative to UC employees.

5) Requires, commencing July 1, 2023, UC submit an annual report to the Legislature and the Department of Finance on the amount of moneys allocated, pursuant to the bill, to UCR, and UCM, how these funds were used, and outcomes resulting from the use of these funds.

Comments

1) *Need for this bill.* According to the author, "California is the fifth largest economy, but these economic benefits are not shared equally by all regions of the state. Most notably, the Inland Empire and Central Valley are among the lowest in educational attainment levels and per capita income. A timely, transformational investment at UC's two most diverse campuses –UCR and UCM – is key to spurring economic development in the Inland Empire and San Joaquin Valley."

   The author further states "Through AB 2046, California will expand access to medical education, healthcare, and advance climate change solutions."

2) *Use of funds*. This bill seeks to support campus expansion projects and climate initiatives at two UC campuses. This bill's legislative findings and declarations provide some direction around the desired outcomes for these funds such as, accelerating economic development and innovation in the areas of air pollution, clean technology, and sustainable agriculture, and significantly improving health outcomes in Inland Empire and central valley as a means of increasing overall equity and per-capita income in these regions of the state. UC is required to report on how funds are ultimately used.

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

According to the Senate Appropriations Committee, while this bill's provisions would be subject to an appropriation, it could result in General Fund costs pressures ranging from the tens of millions to low hundreds of millions of dollars each year to fund campus expansion projects and climate initiatives at UCR and UCM.

The 2022 Budget Act includes one-time funds of $51.5 million for UCR and $31.5 million for UCM to support campus expansion projects, with legislative intent that these amounts be provided in the Budget Act of 2023 and the Budget Act of 2024 to support these projects. The 2022 Budget Act provides additional one-time funds of $47 million for UCR and $18 million for UCM to support climate initiatives at those campuses.

SUPPORT: (Verified 8/23/22)

California State Treasurer Fiona Ma
California Chamber of Commerce
California Forward Action Fund
Council of University of California Faculty Associations
Eastern Municipal Water District
Greater Riverside Chambers of Commerce
Monday Morning Group of Western Riverside County
State Building & Construction Trades Council of California
UAW Local 2865
University Council-American Federation of Teachers

OPPOSITION: (Verified 8/23/22)

None received

ASSEMBLY FLOOR: 74-0, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, McCarty, O'Donnell, Villapudua

Prepared by: Olgalilia Ramirez / ED. / (916) 651-4105
8/23/22 13:23:08

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

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THIRD READING

Bill No: AB 2056
Author: Grayson (D)
Amended: 8/22/22 in Senate
Vote: 27 - Urgency

SENATE GOVERNMENTAL ORG. COMMITTEE: 11-2, 6/14/22
AYES: Dodd, Nielsen, Allen, Becker, Bradford, Hertzberg, Hueso, Jones, Kamlager, Portantino, Roth
NOES: Borgeas, Wilk
NO VOTE RECORDED: Glazer, Melendez

SENATE APPROPRIATIONS COMMITTEE: 6-0, 8/11/22
AYES: Portantino, Bradford, Jones, Laird, McGuire, Wieckowski
NO VOTE RECORDED: Bates

ASSEMBLY FLOOR: 56-0, 5/16/22 - See last page for vote

SUBJECT: Bar pilots: pilotage rates

SOURCE: Cruise Lines International Association
Pacific Merchant Shipping Association
San Francisco Bar Pilots Author

DIGEST: This bill revises and recast the current pilot boat surcharge provisions, including specifying that the costs of obtaining new pilot boats includes preliminary design and engineering and the costs of repowering existing pilot boats or the acquisition of new pilot boats in order to meet the requirements of any rule governing the emissions of commercial harbor craft adopted ty the California State Air Resources Board (CARB), as specified.

Senate Floor Amendments of 8/22/22 make technical and clarifying changes.

ANALYSIS:

Existing law:

1) Establishes the Board of Pilot Commissioners (Board) for the Bays of San Francisco, San Pablo, and Suisun for the purpose of regulating bar pilotage.

2) Prescribes the rates of bar pilotage required to be charged by pilots and paid by vessels inward and outward bound through the above mentioned bays.

3) Requires the Board to recommend that the Legislature, by statute, adopt a schedule of pilotage rates providing fair and reasonable return to pilots engaged in movements other than bar pilotage.

4) Imposes a board operations surcharge of up to 7.5% of all pilotage charges, which is paid by pilots to the Board.

5) Imposes, among other things, an incremental rate of additional mills per high gross registered ton as is necessary and authorized by the Board to recover a pilot's costs of obtaining new pilot boats and of funding design and engineering modifications.

6) Requires all moneys received by the Boar to be paid into the State Treasury to the credit of the Board's Special Fund, moneys in which are continuously appropriated for the payment of the compensation and expenses of the Board and its officers and employees.

7) Requires the Board, from time to time, to review pilotage expenses and establish guidelines for the evaluation and application of these expenses regarding its recommendations for adjustment rates.

8) Authorizes party directly affected by pilotage rates to petition the Board for a public hearing, as prescribed.

9) Provides that a pilot who is carried to sea against the pilot's will or unnecessarily detained on board a vessel, as provided, is entitled to receive $600 per day, plus expenses, from the owner, operator, or agents of the detaining vessel.

This bill:

1) Revises and recasts the current pilot boat surcharge provisions, including specifying that the costs of obtaining new pilot boats includes preliminary design and engineering and the costs of repowering existing pilot boats or the acquisition of new pilot boats in order to meet the requirements of any rule governing the emissions of commercial harbor craft adopted ty the State Air Resources Board.

2) Imposes related requirements on the Board, including, among others, auditing or causing to be audited all pilot boat surcharges.

3) Authorizes the pilot boat surcharge to be collected prospectively before the imposition of certain costs, as prescribed.

4) Authorizes the Board to adjust the amount of the surcharge as necessary to efficiently administer the pilot boat surcharge.

5) Requires the moneys charged and collected each month from the pilot boat surcharge to be paid to the Board Special Fud and used credited to the Pilot Boar Surcharge Account (Account), which the bill would establish in the Board's Commissioners' Special Fund.

6) Continuously appropriates the moneys in the Account to fund the pilot boat costs of obtaining new pilot boats and funding design and engineering modifications for the purpose of extending the service of existing pilot boats, except as prohibited.

7) Establishes maximum expenditure levels, as specified, at specified monetary amounts for the Account based on fiscal year.

8) Increases the rates of bar pilotage required to be charged by pilots and paid by vessels to a minimum of $3,000 on and after January 1, 2024, for each vessel piloted.

9) Increases pilotage rates providing fair and reasonable return to pilots engaged in movements other than bar pilotage by 15% on January 1, 2023, except as otherwise established by the bill for certain types of ship movements, and would delete the requirement that the Board recommend a schedule of those pilotage rates by the legislature.

10) Establishes, in addition to other charges for pilotage, temporary transit charges at specified amounts for all vessels moved across the bar, with specified exceptions, and for all bay moves and river moves.

11) Makes inoperative the temporary transit charges as of the date the Boar publishes the first pilotage tariff pursuant to the provisions of this bill.

12) Repeals current provisions in law that requires Board, from time to time, to review pilotage expenses and establish guidelines for the evaluation and application of these expenses regarding its recommendations for adjustment rates and that authorizes party directly affected by pilotage rates to petition the Board for a public hearing, as prescribed.

13) Requires the Board, pursuant to prescribed procedures, to adopt, and caused to be published, a pilotage tariff that establishes fair, just, reasonable, and sufficient rates for the provision of a safe, competent, reliable, and efficient pilotage service.

14) Establishes procedures to request a change in the established pilotage rates, including procedures for petitions, notice, comment, hearings and orders, and review.

15) Authorizes the adopted pilotage tariff to include the reasonable costs for the setting of tariff rates of the Office of Administrative Hearings and would require those moneys to be paid into, and continuously appropriated from, the Board Commissioners' Special Fund.

16) Provides that pilotage rates imposed pursuant to specified existing law are subject to adjustments, as specified.

17) Requires the Board, after the adoption of the first pilotage tariff, to convene a committee to review the effectiveness of the revised rate setting process and to present and submit a related report to the Legislature, the Governor, and the Secretary of Transportation, as specified.

18) Changes the amount for when a pilot who is carried to sea against the pilot's will or unnecessarily detained on board a vessel, as provided, is entitled to receive $600 per day, plus expenses to $5,000 per day plus expenses.

19) Contains an urgency statute.

Background

Purpose of this bill. According to the author's office, "AB 2056 revises and recasts the pilot boat surcharge to meet the requirements of CARB emission regulations. By authorizing these surcharges, this will ensure that pilot vessels are able to meet the proposed Commercial Harbor Craft (CHC) regulation amendments, whilst contributing to the state's overall emission reduction goals. Additionally, AB 2056 makes several changes to the pilot boat surcharge to streamline and ensure fiscal stability for San Francisco Bar Pilots whilst ensuring that rates are fair and reasonable whilst not being unduly burdensome for oceangoing vessels."

The Board of Pilot Commissioners. The Board is the oversight body that licenses and regulates approximately 60 maritime pilots who make up the San Francisco Bar Pilots. The Board was established in California's first Legislative Session and has been in continuous existence since 1850. The Board is a "tax neutral" agency as all of its expenses are paid for by the shipping industry through surcharges on pilotage fees and not by state or local taxes.

Specifically, San Francisco bar pilots are responsible for steering large commercial vessels through the Golden Gate of San Francisco Bay and adjoining navigable waters, which include San Pablo Bay, Suisun Bay, the Sacramento River, and associated tributaries. When a vessel arrives at a point eleven miles west of the Golden Gate Bridge, a San Francisco bar pilot boards the ship, takes navigational control, and guides the ship to its berth. The same process occurs in reverse as ships depart from the San Francisco Bay. The San Francisco bar pilot's primary function is to ensure that large commercial vessels are navigated safely through the San Francisco Bay's confined waters. They provide service for all types of commercial vessels, from 100-foot tugs to 1000-foot supertankers.

CARB Regulations. CARB adopted the Airborne Toxic Control Measure for Diesel Engines on CHC in 2008 to reduce emissions of diesel particulate matter, oxides of nitrogen, and reactive organic gases from diesel engines used on commercial harbor craft operated in regulated California waters. CARB amended the original regulation in 2010 to include additional vessel categories, including crew and supply, barge, and dredge vessels. The current regulation will be fully implemented by the end of 2022. At the end of 2021, CARB proposed to amend the current regulation to further reduce emissions from harbor craft in impacted communities.

The proposed regulations accelerate the bar pilots' new build program to a schedule that requires the construction of three vessels by year-end 2024, one by year-end 2025 and one by year end 2028. Compliant equipment adds an additional $10.5 million in construction costs resulting in a $45 million build program.

Current law provides for cost recovery of acquisition or life-extension modifications to pilot boats through the imposition of a pilot boat surcharge. The pilot boat surcharge was established to be recovered upon completion of delivery of the new boats. Delivery is required prior to setting an actual amount to be recovered or a timeframe for recovery. This process is administered by the Board per a regulatory process that includes industry participation and oversight, and has been used for the past two decades with little controversy and pilot-industry collaboration.

According to the author, "this bill authorizes the [Board] to adjust the pilot boat surcharge to include the costs associated with the acquisition of new pilot boats or repowering existing boats in order to meet CARB emissions requirements. By authorizing these surcharges, this will ensure that pilot vessels are able to meet the proposed commercial harbor craft amendments, whilst contributing to the state's overall emission reduction goals."

Rate setting Reform. AB 2056 reflects a compromise between the San Francisco Bar Pilots, the Pacific Merchant Shipping Association, the Western States Petroleum Association, and the Cruise Lines International Association. After many failed attempts, it became clear that no new rates would be likely to pass the Legislature without consensus from all the stakeholders mentioned above.

The new rate setting process established by this bill removes the Legislature and establishes an independent administrative process similar to processes in other states like Oregon and Washington. The new process would be conducted by an independent Administrative Law Judge (ALJ) with review and oversight by the Board. The rate determination would be formulaic and would include evidentiary proceedings involving impacted parties. The ALJ's rate order would be considered final and only under certain circumstances can the Board make technical changes or refer elements to the ALJ for further review or reject the order in its entirely.

According to supporters, "the new process emphasizes that joint petitions and stipulated agreements are preferred and is stakeholder driven."

Rate Charges & Temporary Transit Fees. The bill also increase various charges that have not been revised since 2006 and institutes a set of temporary transit fees (TTF), considered to be extraordinary in the wake of the COVID-19 pandemic and

resulting supply chain crisis. These fees were negotiated by all parties and represent the first major consensus on rate increases in the SF Bay for pilotage in 15 years.

The TTFs will range from $1,000 to $750, depending on the vessel type and destination with the pilot's service area. These TTFs are specified as short-term and pandemic related revenue measures and are required to sunset when new pilot rates are established under the process described above. Regarding the changes in the inland rates and minimum charges across the bar, these are proposed to be revised similar to the consensus revisions included in AB 807 (Grayson, Chapter 172, Statutes of 2021) which were approved by the Legislature last year.

According to supporters of this bill, "by revising these rates to be compensatory such that they reflect the actual minimum costs of providing service by pilots. This in turn eliminates ratepayer and industry cross-subsidization within the system."

Related/Prior Legislation

AB 807 (Grayson, Chapter 172, Statutes of 2021) deleted the authority of the Board to adjust pilotage fees due to catastrophic cost increases and instead required a surcharge to be imposed per each movement of a vessel as is necessary and authorized by the Board to recover the cost of the pilot associated with a catastrophic event, as specified.

AB 1432 (Bonta, Chapter 119, Statutes of 2016) authorized, until January 1, 2021, a technology surcharge, not to exceed a cumulative amount of $1.2 million, to recover a pilot's costs for the purchase or lease of navigation hardware and software to enhance navigation safety.

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

According to the Senate Appropriations Committee, unknown, potentially significant fiscal impact to the Board of Pilot Commissioners (BOPC) (BOPC's Special Fund). This includes:

- One-time cost in the hundreds of thousands of dollars for activities related to rulemaking for the adoption of the new tariff. This would include staff time and resources to hold public meetings and review and collect stakeholder feedback.
- One-time cost to convene the committee and create and submit the required rate setting report.

- Ongoing, but not annual costs in the mid-tens of thousands of dollars to facilitate rate setting hearings with an Administrative Law Judge. These costs will materialize only in the event that rates will need to be adjusted.
- Ongoing administrative costs in the tens of thousands of dollars annually related to auditing and accounting activities.

BOPC's administrative costs and expenses are covered by an existing indirect surcharge of five percent on all moneys collected on various fees paid by harbor crafts and the BOPC does not receive any state or General Fund moneys. To the extent that the above workload related to new activities required in the bill is not absorbable within BOPC's existing resources, additional staff or resources may be required. For context the 2022-23 Budget includes 4.0 PYs for the BOPC with a total budget of approximately $3.1 million.

Unknown, ongoing increased revenue in the millions of dollars from increased pilotage fees and surcharges, to be deposited into the newly created Pilot Boat Surcharge Account and BOPC's Special Fund.

SUPPORT: (Verified 8/12/22)

Cruise Lines International Association (co-source)
Pacific Merchant Shipping Association (co-source)
San Francisco Bar Pilots (Co-source)

OPPOSITION: (Verified 8/12/22)

None received

ARGUMENTS IN SUPPORT: According to supporters of the bill, "the proposed [CARB] regulations accelerate our [the Bar pilots'] build program to a schedule that, as a practical matter, is unattainable; requiring the construction of three vessels by year-end 2024, one by year-end 2025 and one by year end 2028. Schedule and sourcing challenges aside, compliant equipment adds additional $10.5 million in construction costs, 25% higher, resulting in a $45 million program that creates significant financial hurdles given all these constraints. AB 2056 will specifically include the cost of the updated regulation and new build program for pilot boats in the existing Pilot Boat Surcharge."

Additionally, supporters of the bill argue that "the compromise reached in AB 2056 would implement changes to the rate setting process and remove the Legislature from decisions by establishing and independent administrative process built around the Oregon and Washington models. As a result, the new proposed

process would be conducted by an ALJ with review and oversight by the Board. The rate determination will be formulaic and will include evidentiary proceedings involving impacted parties."

ASSEMBLY FLOOR: 56-0, 5/16/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Cooley, Cooper, Daly, Davies, Flora, Mike Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Maienschein, Mayes, McCarty, Medina, Mullin, O'Donnell, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Santiago, Stone, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Choi, Cunningham, Megan Dahle, Fong, Kiley, Lackey, Low, Mathis, Muratsuchi, Nazarian, Nguyen, Patterson, Quirk-Silva, Blanca Rubio, Salas, Seyarto, Smith, Ting, Valladares, Voepel, Waldron

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8/23/22 13:23:22

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

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THIRD READING

Bill No: AB 2057
Author: Carrillo (D)
Amended: 8/25/22 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 11-3, 6/14/22
AYES: Gonzalez, Allen, Becker, Cortese, Dodd, Limón, McGuire, Min, Newman, Skinner, Wieckowski
NOES: Bates, Dahle, Melendez
NO VOTE RECORDED: Archuleta, Rubio, Wilk

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 6/29/22
AYES: Cortese, Durazo, Newman, Wiener
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 53-19, 5/26/22 - See last page for vote

SUBJECT: Department of Transportation: goods movement data

SOURCE: Author

DIGEST: This bill requires the California State Transportation Agency (CalSTA) to collect and consolidate data related to goods movement in the transportation supply chain from specified sources.

Senate Floor Amendments of 8/25/22 replace CalSTA with the California Department of Transportation and eliminate the requirement that the Labor Commission shall have access to data from the Department of Industrial Relations.

ANALYSIS:

Existing law:

1) Requires the South Coast Air Quality Management District (SCAQMD) to adopt a plan to achieve and maintain the state and federal ambient air quality standards for the South Coast Air Basin. Authorizes SCAQMD to adopt indirect sources in those areas of the district in which there are high-level, localized concentrations of pollutants or with respect to any new source that will have a significant effect on air quality in the South Coast Air Basin.

2) Requires the State Air Resources Board (CARB), in consultation with the Bureau of Automotive Repair and the Department of Motor Vehicles, to adopt and implement a regulation for a Heavy-Duty Vehicle Inspection and Maintenance Program for non-gasoline heavy-duty on-road motor vehicles that weigh more than 14,000 pounds.

3) Requires owners of heavy duty diesel drayage trucks that transport cargo to and from California ports and rail yards to register in the Drayage Truck Registry with CARB.

4) Provides for CARB to administer programs, such as the Hybrid and Zero Emission Truck and Bus Voucher Program (HVIP) and the Carl Moyer Program, to subsidize the purchase of clean medium- and heavy-duty trucks, including drayage trucks.

This bill:

1) Requires California Department of Transportation (Caltrans) to create a page on its website that contains links to existing registries and databases related to drayage trucks from all the following sources:

   a) The CARB online truck reporting systems.

   b) The Port Drayage Truck Registry that is part of the Clean Trucks Program at the Port of Los Angeles and Port of Long Beach.

   c) Data maintained by the California Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project regarding drayage truck subsidy recipients.

   d) Truck make and model reported pursuant to the SCAQMD Warehouse Indirect Source Rule.

e) Compliance status of trucks under the Heavy-Duty Vehicle Inspection and Maintenance Program.

f) Data from ports and the Department of Industrial Relations (DIR), as specified below, and other data related to drayage trucks, as specified.

2) Requires all maritime ports with annual cargo volumes of greater than one million 20-foot equivalent units to anonymously survey trucking companies every two years on the number of drivers classified as independent contractors and the number of drivers classified as employee drivers.

3) Requires DIR to provide to Caltrans links to existing public registries and databases related to drayage trucks. As well as links to public databases that may include information related to employers who are committing workers' compensation fraud or information on health and safety enforcement activity.

Comments

1) *Author's Statement*. "California is home to some of the largest and busiest ports in the nation and can lead in the effort to improve data and transparency. Trucks and truck drivers are a key part of the logistics chain at the ports, yet there is no central entity tracking data on the number of trucks dispatched by each company, the types of vehicles (ZEV) used, job quality, employment status, and other data points. AB 2057 would increase transparency in the goods movement and transportation supply chain by allowing for data sharing with relevant state agencies to increase supply chain resilience and sustainability. Recent supply chain delays highlight the struggle to maintain efficient goods movement at our nation's ports. President Biden's infrastructure plan will invest billions on modernizing ports and his Administration has called for increased transparency and data collection to improve efficiency and identify bottlenecks. This bill attempts to do just that."

2) *Which Ones?* This bill requires large ports to anonymously survey trucking companies every two years on the number of drivers classified as independent contractors and the number classified as employee drivers. The threshold of one million 20-foot equivalent units limits this to the Ports of Los Angeles, Long Beach and Oakland. This bill provides that the ports shall not condition entry into their facilities on the basis of survey responsiveness by the trucking company or on the information provided by that company.

3) *What Data*? This bill requires Caltrans to consolidate and display data from a variety of government sources on its website. This data should already be

available from the agencies administering the referenced programs. Therefore, it should not be proprietary nor should it be expensive to gather and consolidate. Perhaps clever data scientists will be able to deduce which, if any, trucking companies are misclassifying their drivers based on this data and the port surveys required by this bill.

4) *Opposition Addressed*. The opponents raised concerns about the prior version of this bill. The current version of this bill addresses their concerns and the opposition has been removed.

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

According to the Senate Appropriations Committee:

- Unknown minor to moderate CalSTA costs, depending on the details of implementation, including the amount and size of data and the frequency of reporting information to the Agency. Costs to simply post lists and links to existing data would likely be minor, but CalSTA indicates that updating data more frequently may require additional staff resources to compile, format, and post information on a regular basis. (State Highway Account)

- DIR estimates costs of approximately $1.26 million in the first year and $1.19 million ongoing for 6.0 PY of staff for the Division of Labor Standards and Enforcement (DSLE) to collect, compile, vet, and to quarterly post specified data on its website. There would be additional estimated costs of approximately $112,000 in the first year and $68,000 ongoing for the Division of Occupational Safety and Health to verify and compile data. DIR indicates that there could be additional significant costs, to the extent DSLE were required to act as a data-clearance agency to ensure the reliability and accessibility of the data. (General Fund)

- Unknown, potentially significant mandated local costs for maritime ports to conduct specified biennial surveys of trucking companies. Staff assumes that these costs would not be state-reimbursable because ports have general authority to charge fees on port users to offset administrative and operating costs. (local costs)

SUPPORT: (Verified 8/26/22)

Bluegreen Alliance
California Environmental Voters
California Labor Federation, AFL-CIO

California State Association of Electrical Workers
California Teamsters Public Affairs Council
Centro Legal De LA Raza
Clergy and Laity United for Economic Justice
Earthjustice
LAANE (Los Angeles Alliance for a New Economy)
Latinos in Action
Los Angeles County Federation of Labor, AFL-CIO
NRDC
Santa Clara Wage Theft Coalition
SEIU California
Sierra Club California
Southern California COSH
Union of Concerned Scientists
Warehouse Worker Resource Center

OPPOSITION: (Verified 8/26/22)

None received

ASSEMBLY FLOOR: 53-19, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Cooley, Gray, Mayes, O'Donnell, Villapudua

Prepared by: Randy Chinn / TRANS. / (916) 651-4121
8/26/22 15:41:18

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

SENATE RULES COMMITTEE AB 2061
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THIRD READING

Bill No: AB 2061
Author: Ting (D) and Reyes (D), et al.
Amended: 8/23/22 in Senate
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 13-0, 6/21/22
AYES: Hueso, Dahle, Becker, Borgeas, Bradford, Dodd, Gonzalez, Grove, Hertzberg, McGuire, Min, Rubio, Stern
NO VOTE RECORDED: Eggman

SENATE TRANSPORTATION COMMITTEE: 17-0, 6/28/22
AYES: Newman, Bates, Allen, Archuleta, Becker, Cortese, Dahle, Dodd, Hertzberg, Limón, McGuire, Melendez, Min, Rubio, Skinner, Wieckowski, Wilk

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 74-0, 5/26/22 - See last page for vote

SUBJECT: Transportation electrification: electric vehicle charging infrastructure

SOURCE: ChargeHelp!
FLO

DIGEST: This bill requires the California Energy Commission (CEC) to establish definitions to calculate the "uptime" during which an electric vehicle (EV) charger is operational. This bill also requires the CEC to adopt reporting and recordkeeping requirements for public and ratepayer-funded chargers to assess the uptime and accessibility of these chargers. This bill also authorizes the CEC to adopt certain tools to encourage EV charger reliability.

Senate Floor Amendments of 8/23/22 require the CEC to adopt definition of terms it will use to calculate EV charger uptime and adopt recordkeeping and reporting requirements for ratepayer- and publicly-funded chargers. The amendments make

adoption of tools to improve charger accessibility permissive instead of mandatory and sunset this bill on January 1, 2035.

ANALYSIS:

Existing law:

1) Establishes the Clean Transportation Program (CTP), which is administered by the CEC to provide grants, loans, and other funding opportunities to projects that develop and deploy alternative and renewable fuels, zero-emission vehicle (ZEV) infrastructure and technologies, programs that help commercialize ZEV and alternative fuel vehicles and workforce development projects that transition workers from fossil fuel industries to clean transportation jobs. (Health and Safety Code §44272 et. seq.)

2) Allocates a portion of smog abatement fees to fund the CTP and sunsets the fee on January 1, 2024. (Health and Safety Code §44060.5)

3) Requires the CEC to assess whether charging station infrastructure is disproportionately deployed by population density, geographical area, or population income level, including low-, middle-, and high-income levels. To the extent that the CEC finds that charging infrastructure in inequitably distributed, the CEC must target CTP funding opportunities to address identified disparities. (Public Resources Code §25231)

4) Requires the CEC to conduct a statewide assessment every two years of EV charging infrastructure needed to support the levels of EV adoption required for the state to meet its goals of putting at least five million ZEVs on California roads by 2030, and of reducing emissions of greenhouse gases (GHG) to 40 percent below 1990 levels by 2030. (Public Resources Code §25229)

5) Authorizes the California Air Resources Board (CARB) to adopt interoperability billing standards for EV charging stations' network roaming payment methods if a national standards organization has not adopted similar standards by January 1, 2015. If CARB adopts interoperability billing standards, all EV chargers requiring payment for use must meet those standards within a year. Any standards adopted by CARB must consider other governmental or industry-developed interoperability billing standards, and CARB may adopt standards developed by an outside authoritative body. (Health and Safety Code §44268.2)

This bill:

1) Requires the CEC to conduct a public workshop process to define "uptime" for the purpose of calculating when an EV charger is operational and functioning. This bill specifies factors the CEC must consider when developing this uptime definition.

2) Requires the CEC to adopt uptime recordkeeping and reporting requirements, which must do all the following:

   a) Apply only to EV chargers that received a public- or ratepayer-funded incentive.
   b) Apply for at least six years – or a longer period determined by the CEC.
   c) Apply to EV chargers installed on or after January 1, 2024.

3) Authorizes the CEC to adopt different recordkeeping and reporting requirements for different types of charging stations, including, but not limited to, non-networked charging stations, different levels of charging stations, and mobile solar charging stations. This bill enables the CEC to reduce reporting requirements until feasible and cost-effective reporting mechanisms are established.

4) Exempts charging stations at residential properties with four or fewer dwelling units from this bill's reporting requirements.

5) Requires the CEC to work with the California Public Utilities Commission (CPUC) to determine what events make a charger inoperable, constituting excluded time that is exempt from the calculation of a charger's uptime, including events that are beyond the charger operator's control.

6) Requires the CEC, starting January 1, 2025, to conduct a biennial assessment of EV chargers, which must include the following:

   a) An assessment of the uptime of EV charging infrastructure
   b) An assessment of equitable access to reliable charging stations based on community income.
   c) The ability of companies submitting information to request that the CEC keep submitted data confidential.

7) Authorizes the CEC to adopt additional tools to encourage uptime, including operations and maintenance standards and incentives, uptime requirements, and operation and maintenance requirements.

8) Sunsets this bill on January 1, 2035.

Background

ZEV deployment goals have accelerated, emphasizing the need for infrastructure. In recent years, California has accelerated its goals for ZEV adoption. Existing law establishes a goal of putting at least five million ZEVs on state roads and reducing GHG emissions to 40 percent below 1990 levels by 2030. In January 2018, Governor Brown issued Executive Order B-48-18, which established a goal of installing 200 hydrogen-fueling stations and 250,000 battery-electric vehicle chargers, including 10,000 direct-current fast chargers, by 2025. In September 2020, Governor Newsom issued Executive Order N-79-20, which established a goal that 100 percent of in-state sales of new passenger cars and trucks will be zero emission by 2035. The order also stated the goal that 100 percent of medium- and heavy-duty vehicles in the state be zero emission by 2045 for all operations where feasible.

ZEV adoption influences the availability of charging and refueling infrastructure, and infrastructure availability influences ZEV adoption. Generally, a higher ZEV adoption rate corresponds with greater investments in infrastructure for those ZEVs. The absence of needed infrastructure can discourage ZEV purchases and the decline in purchases further disincentives the deployment of infrastructure. To the extent that California intends to reach its ZEV adoption goals, the state will need to make a commensurate effort to deploy infrastructure to ensure that drivers are incentivized to use ZEV vehicles.

Bill addresses lack of data about EV charger reliability. As part of its duties to assess opportunities to encourage EV adoption and more equitable distribution of EV chargers, the CEC has opened a proceeding (Docket 21-TRAN-03) to assess zero emission vehicle infrastructure barriers and opportunities. In March 2022, the CEC held a workshop and solicited comments from stakeholders about barriers to EV adoption and issues the CEC should address in its Zero Emission Vehicle Infrastructure Plan. Stakeholders identified a variety of barriers to EV adoption and opportunities to incentivize adoption. Several of these stakeholders, including companies that provide software and hardware management services for EV charger providers, identified EV charger outages as a barrier to consumer confidence in EV charging. These stakeholders have recommended that the CEC

to develop reliability standards for EV chargers to ensure that fewer service outages occur.

In April 2022, the CEC released its draft staff report for the Zero Emission Vehicle Infrastructure Plan. While the plan acknowledges that state agencies and private entities need to collaborate to address the reliability of EV infrastructure, the plan does not identify downtime barriers directly related to EV chargers. The CEC's report primarily identifies downtime and station reliability as a concern for hydrogen fuel cell electric vehicle (FCEV) adoption.

Anecdotally, EV charger outages may be a barrier for EV use; however little data has been collected to identify the extent to which these outages deter EV adoption. While some chargers my experience outages due to factors outside a provider's control (e.g. vandalism, electric power outages, accidents), other charger outages may be caused by a lack of maintenance. An April 2022 report by researchers at the University of California at Berkeley indicates that charger outages and malfunctions reduce charger availability significantly. The report studied all publicly accessible direct current fast chargers (DCFCs) in the greater Bay Area and found that only 72.5 percent of the chargers had functional electric vehicle service equipment (EVSE). The report states that the following were causes of nonfunctional DCFCs in the study: "The cable was too short to reach the EV inlet for 4.9 percent of the EVSEs. Causes of 22.7 percent of EVSEs that were non-functioning were unresponsive or unavailable screens, payment system failures, charge initiation failures, network failures, or broken connectors." Without more information about the reasons for outages, it is not clear how widespread these outages are and how they can be avoided. To the extent that this bill provides the CEC with sufficient data to identify outages that could be avoided, this bill may improve transparency about EV outages.

Bill focuses on state and ratepayer EV charger investments. This bill's data reporting requirements apply only to entities that receive state or ratepayer funds to deploy chargers. State and ratepayer funded chargers comprise a significant number of publicly available chargers and chargers at certain workplaces and residential locations. This bill exempts chargers at residences with four or fewer units from the data reporting requirements. However, publicly-funded or ratepayer-funded chargers at private commercial properties and larger multifamily dwellings would report uptime data to the CEC under this bill. To the extent that this bill helps better enforce adequate maintenance and functionality of state and ratepayer-funded investments, this bill could help improve ratepayer and taxpayer benefits associated with transportation electrification investments.

Related/Prior Legislation

AB 2703 (Muratsuchi, 2022) would have required the CEC to develop a program to provide financial assistance for EV charging by low-income drivers and those who reside in disadvantaged communities. The bill also would have authorized the CEC to establish reliability standards for EV chargers that receive state funds. The bill was held in the Senate Appropriations Committee.

AB 1424 (Berman, 2019) would have required CARB to modify its EV billing standards to allow a person to pay via a toll-free telephone number to process a credit card payment or via an onsite capacity for credit card payment by a contactless credit card, EMV chip, or magstripe card reader. The bill would have also delayed the adoption of specified interoperability standards for network roaming payment methods for EV charging stations until January 1, 2021. The bill was held in the Senate Appropriations Committee.

SB 1000 (Lara, Chapter 368, Statutes of 2018) required the CEC to assess whether charging station infrastructure is disproportionately deployed by population density, geographical area, or population income level, including low-, middle-, and high-income levels. The bill also required the CEC to target CTP funds address inequities found by the CEC regarding equitable distribution of EV infrastructure.

AB 2127 (Ting, Chapter 365, Statutes of 2018) required the CEC to conduct a statewide assessment every two years of EV charging infrastructure needed to support the levels of EV adoption required for the state to meet its goals of putting at least five million ZEVs on California roads by 2030, and of reducing emissions of GHG to 40 percent below 1990 levels by 2030.

SB 454 (Corbett, Chapter 418, Statutes of 2013) established the Electric Vehicle Charging Stations Open Access Act, which prohibits EV charger owner-operators from requiring individuals to join clubs or pay subscription fees to use a charger. The bill also authorized the CARB to establish interoperable billing standards for EV chargers if a national organization has not adopted such standards by 2015.

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

According to the Senate Appropriations Committee:

- CEC estimates ongoing costs of $300,000 annually (Alternative and Renewable Fuel and Vehicle Technology Fund).

- CPUC anticipates no fiscal impact from this bill.

SUPPORT: (Verified 8/26/22)

ChargerHelp! (co-source)
FLO (co-source)
350 Bay Area Action
AAA Northern California, Nevada & Utah
Advanced Energy Economy
Amply Power
Automobile Club of Southern California
California Environmental Voters
CALSTART
Center for Sustainable Energy
ChargePoint
Coalition for Clean Air
Cruise
Electrify America
Plug in America
Silicon Valley Clean Energy
Sonoma Clean Power
Southern California Edison
Union of Concerned Scientists
Valley Clean Air Now

OPPOSITION: (Verified 8/24/22)

None received

ARGUMENTS IN SUPPORT: According to the author, "Access to reliable charging stations is the driving force that will lead to greater EV adoption, which is key to meeting our climate goals. Consumers need to know they won't be stranded and will be able to plug in wherever they travel in our state. California has been investing billions in charging infrastructure over the last decade and we need a holistic understanding of station reliability and if any steps are necessary to improve overall reliability. We need to understand the state of the charging infrastructure in order to address issues and better direct resources to fix them. This bill bolsters existing reporting requirements and expands data collected by the Energy Commission on all charging stations by July 1, 2023. AB 2061 creates a policy framework to track station reliability and assess if there are underlying equitable access issues beginning January 1, 2025."

ASSEMBLY FLOOR: 74-0, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Lackey, O'Donnell, Smith

Prepared by: Sarah Smith / E., U. & C. / (916) 651-4107
8/26/22 12:48:59

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

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THIRD READING

Bill No: AB 2091
Author: Mia Bonta (D), et al.
Amended: 8/24/22 in Senate
Vote: 27 - Urgency

SENATE JUDICIARY COMMITTEE: 9-2, 6/14/22
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, Stern, Wieckowski, Wiener
NOES: Borgeas, Jones

SENATE HEALTH COMMITTEE: 8-2, 6/29/22
AYES: Pan, Eggman, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NOES: Melendez, Grove
NO VOTE RECORDED: Gonzalez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 54-16, 5/26/22 - See last page for vote

SUBJECT: Disclosure of information: reproductive health and foreign penal civil actions

SOURCE: Equity California
Planned Parenthood Affiliates of California

DIGEST: This bill prohibits the validation of foreign subpoenas pertaining to a foreign penal civil action, as defined. This bill prohibits the sharing of specified information in response to subpoenas related to out-of-state anti-abortion statutes or foreign penal civil actions. This bill authorizes the Insurance Commissioner to issue civil penalties against health insurers who violate the confidentiality of an insured's medical information. This bill also prohibits prison staff from disclosing identifying medical information related to an incarcerated person's right to seek and obtain an abortion if the information is being requested is based on out-of-state

anti-abortion statutes or foreign penal civil actions. This bill declares it is to take effect immediately as an urgency statute.

Senate Amendments of 8/24/22 clarify the bill applies to enforcement of another state's law that interferes with a person's right under the Reproductive Privacy Act, includes non-gendered terms, and add chaptering out amendments with SB 107 (Wiener, 2022).

ANALYSIS: Existing federal law provides that full faith and credit must be given in each state to the public acts, records, and judicial proceedings of every other state, and that the United States Congress may by general laws prescribe the manner in which such acts, records, and proceedings must be proved, and the effect thereof. (U.S. Const. art. IV, sec. 1.)

Existing state law:

1) Holds that the state constitution's express right to privacy extends to an individual's decision about whether or not to have an abortion. *(People v. Belous* (1969) 71 Cal.2d 954.)

2) Provides that a court of this state may exercise jurisdiction on any basis not inconsistent with the Constitution of this state or of the United States. (Code of Civ. Proc. § 410.10.)

3) Establishes the Reproductive Privacy Act, provides that the Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions and, therefore, it is the public policy of the State of California that every individual has the fundamental right to choose or refuse birth control and every individual has the fundamental right to choose to bear a child or to choose to obtain an abortion, with specified limited exceptions. (Health & Safe. Code § 123460 et. seq., § 123462.)

4) Requires a health insurer to recognize the right of a protected individual to exclusively exercise rights regarding medical information related to sensitive services that the protected individual has received, including reproductive health services. (Ins. Code § 791.29 (a)(2).)

5) Provides that a court of this state may exercise jurisdiction on any basis not inconsistent with the Constitution of this state or of the United States. (Code of Civ. Proc. § 410.10.)

6) Provides, under the Interstate and International Depositions and Discovery Act, the procedure for obtaining discovery in California for purposes of a case pending in a jurisdiction outside of California. (Code of Civ. Proc. § 2029.100 et seq.)

7) Provides specified rights and medical care requirements for incarcerated pregnant persons, including the right to seek and obtain an abortion. (Pen. Code § 3408 et seq.)

This bill:

1) Makes various findings and declarations, including that abortion care is a constitutional right; California is committed to building upon existing protections that preserve the right to abortion; actions against California abortion providers, patients and supporters based on hostile antiabortion statues in other states would interfere with protected rights under the Reproductive Privacy Act; and that California must protect the confidentiality of medical records related to abortion.

2) Prohibits a provider of health care, a health care service plan, a contractor, or employer from releasing medical information related to an individual seeking or obtaining an abortion in response to a subpoena or request if that subpoena or request is based on either: (a) another state's laws that interferes with a person's rights under the Reproductive Privacy Act; or (b) a foreign penal civil action, as defined. Also prohibits them from releasing that information to law enforcement for specified purposes.

3) Defines "foreign penal civil action" to mean a civil action authorized by the law of a state other than this state in which the sole purpose is to punish an offense against the public justice of that state.

4) Prohibits the superior court or an attorney licensed in California from issuing a subpoena based on a foreign subpoena that relates to a foreign penal civil action and requires disclosure of information related to sensitive services, as defined.

5) Prohibits compelling a person in a state, county, city, or other local criminal, administrative, legislative, or other proceeding to identify or provide information that would identify or is related to an individual who sought or obtained an abortion if the information being requested is based on either: a) another state's law that interferes with a person's rights under the Reproductive Privacy Act, or b) a foreign penal civil action, as defined.

6) Provides that, if the Insurance Commissioner determines that an insurer has violated specified rights and requirements providing for the privacy and confidentiality of an insured person, the Commissioner may, after appropriate notice and opportunity for a hearing, assess a civil penalty not to exceed $5,000 for each violation, or $10,000 for a willful violation.

7) Provides the provisions of this bill are severable and declares it is to take effect immediately as an urgency statute.

Comments

The California Supreme Court held in 1969 that the state constitution's express right to privacy extends to an individual's decision about whether or not to have an abortion. (People v. Belous (1969) 71 Cal.2d 954.) Existing California statutory law provides, under the Reproductive Privacy Act, that that the Legislature finds and declares every individual possesses a fundamental right of privacy with respect to personal reproductive decisions; therefore, it is the public policy of the State of California that every individual has the fundamental right to choose or refuse birth control and the right to choose to bear a child or to choose to obtain an abortion. (Health & Safe. Code § 123462(a)-(b).) The Act further provides that it is the public policy of the state that the state shall not deny or interfere with a person's fundamental right to choose or obtain an abortion prior to viability of the fetus or when the abortion is necessary to protect the life or health of the pregnant person. (Health & Safe. Code § 123462(c) & § 123466.) In 2019, Governor Newsom issued a proclamation reaffirming California's commitment to making reproductive freedom a fundamental right in response to the numerous attacks on reproductive rights across the nation.

Roe v. Wade is the landmark U.S. Supreme Court decision that held the implied constitutional right to privacy extends to a person's decision whether to terminate a pregnancy; while allowing that some state regulation of abortion access could be permissible. ((1973) 410 U.S. 113.) Roe has been one of the most debated Supreme Court decisions, and its application and continued validity have frequently been challenged in the courts. On June 24, 2022 the Court published its official opinion in Dobbs v. Jackson Women's Health and voted 6-3 to overturn the holding in Roe, overturning almost 50 years of precedent.

Texas recently enacted a law that essentially places a near-categorical ban on abortions beginning six weeks after a person's last menstrual period. This law has far-reaching implications, not solely for a person obtaining an abortion or performing abortion services, as it prohibits anyone from "aiding and abetting" a

person in obtaining an abortion. (Tex. Health & Safety Code § 171.208.) This potentially implicates and imposes significant civil liability upon a person providing transportation to or from an abortion clinic, a person donating to a fund to assist individuals receiving an abortion, or even a person who simply discusses getting an abortion with someone. The Texas law provides that any person, other than an officer or employee of a state or local governmental entity in Texas, may bring a civil action to enforce its provisions, which includes liability of $10,000 plus costs and fees if a plaintiff prevails while a defendant is prohibited from recovering their own costs and fees if they prevail. (Id. at § 171.201(b) & (i).)

This bill seeks to further the public policy of this State that access to abortion is a fundamental right by providing protection to individuals seeking to exercise that right and to ensure their privacy. This bill prohibits a provider of health care, health care service plan, a contractor, or employer from releasing medical information related to an individual seeking or obtaining an abortion in response to a subpoena or request if that subpoena or request is based on either: a) another state's laws that interfere with a person's rights under the Reproductive Privacy Act, or b) a foreign penal civil action, as defined. This bill prohibits a person from being compelled in a state, county, city, or other local criminal, administrative, legislative, or other proceeding to identify or provide information that would identify or that is related to an individual who has sought or obtained an abortion if the information is being requested based on either of those instances. This bill prohibits the issuance of a subpoena by a state court or an attorney licensed in this state based on a foreign subpoena that relates to a foreign penal civil action and would require disclosure of information related to sensitive services.

Article IV, Section 1 of the U. S. Constitution, known as the Full Faith and Credit Clause, requires every state to give full faith and credit to the public acts (statutes), records, and judicial proceedings of every other state. As this bill requires certain orders and judgments of other states to not be enforced in California, it implicates the Full Faith and Credit Clause. Current legal scholarship regarding the Full Faith and Credit Clause posits that the clause applies differently to public acts (statutes), records, and judicial proceedings. The Court has generally held, dating back to 1813, that states must recognize and enforce the judicial determinations of another state. (Mills v. Duryee (1813) 7 Cranch 481, 484-485.) However, the Court has intimated that there may be exceptions to this general rule, stating that states are not automatically required to enforce civil judgments of another state that are based on that state's civil statutes when the goal or purpose of the civil statute is punishing a person for an offence against the "public justice." (Huntington v Attrill (1892) 146 U.S. 657, 673-674.)

It can be plausibly argued that the Texas statute, and others like it, are designed to punish an offense against the public justice. They do not require any actual harm or violation of personal rights for a plaintiff to bring a civil suit to enforce its provisions. As such, the $10,000 civil penalty cannot be intended to compensate the plaintiff for a personal injury or remedy a specific harm. Statutes regulating abortion have historically been enforced through criminal prosecutions or by state regulatory agencies as public health measures. Further evidence that the purpose of the Texas law is penal is found in statements made by John Seago, the legislative director of Texas Right to Life, which was a sponsor of the Texas bill, where he stated one motivation for enacting the law was because district attorneys publicly signed a letter stating they will not enforce laws that criminalize abortion. If in-state district attorneys refuse to enforce laws to punish an offense against the public justice of that state, it seems even more absurd to require courts of another state to, especially when the out-of-state policy is diametrically opposed to the public policy of this state and would require California to undermine fundamental rights.

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

SUPPORT: (Verified 8/23/22)

Equality California (co-source)
Planned Parenthood Affiliates of California (co-source)
Lieutenant Governor Eleni Kounalakis
Attorney General Rob Bonta
American College of Obstetricians and Gynecologists District IX
California Academy of Family Physicians
California Alliance for Retired Americans
California Department of Insurance
California Federation of Teachers AFL-CIO
California High School Democrats
California Legislative Women's Caucus
California Nurse Midwives Association
California Nurses Association
California Pan-Ethnic Health Network
City of Los Angeles
City of Oakland
Electronic Frontier Foundation
Los Angeles County Democratic Party
NARAL Pro-Choice California
National Association of Social Workers, California Chapter

Oakland Privacy
Santa Barbara Women Lawyers
Stanford Health Care
Stronger Women United
University of California

OPPOSITION: (Verified 8/23/22)

Right to Life League
Concerned Women for America
Four individuals

ARGUMENTS IN SUPPORT: The author writes:

> States throughout the U.S. have been targeting and restricting abortion access. With the U. S. Supreme Court likely to overturn the protections granted under *Roe v. Wade*, it is essential for states like California to double down on abortion access and strong abortion related privacy protections. Regressive abortion laws, like we most recently saw in a Texas law that allows private citizens to sue anyone who even utters the word abortion, are a huge infringement on a person's constitutional right to an abortion. We know that people are coming to California to seek reproductive care. However, we worry that private citizens will demand the medical records of those who seek care here in California, in order to punish them. No one should be able to manipulate California's legal system to target and punish people who seeks care and refuge here. My bill will ensure out of state subpoenas, which seek information related to a patient who received reproductive healthcare here in California, are not granted. By doing this, California will protect the medical privacy of those patients who may be targeted under these hostile states' laws. California must proactively protect the confidentiality of medical records, related to abortion care, especially as we see states around the country paving the way to use those records to enforce their own state's anti-abortion laws.

Planned Parenthood Affiliates of California, a sponsor of this bill, write:

> […The Texas law relies on private citizens, even those who have no connection to the person seeking the abortion, to enforce the abortion ban by filing civil lawsuits against abortion providers and those who assist people in obtaining abortions. Unfortunately, the U.S. Supreme Court has upheld this scheme to circumvent judicial review of an unconstitutional state law and lawmakers in 18 states have now introduced or announced they will introduce legislation to ban abortion modeled after the Texas law. As people in these

states travel out of state to seek abortion care, more and more patients will turn to California for care – putting abortion providers and patients at risk of civil liability.

AB 2091 takes specific steps to protect patient privacy by prohibiting health plans, health care providers, and their contractors from disclosing medical information of a person seeking an abortion in response to a subpoena based on the violation of another state's law and by ensuring that an out of state subpoena is not immediately granted as it relates to a patient who received an abortion in California. The bill also protects an individual from being compelled to disclose information that would identify an individual who sought or obtained an abortion. Additionally, it authorizes the Insurance Commissioner to assess a civil penalty against an insurer that has disclosed an insured's confidential medical information. These actions are just a few steps necessary to protect patient privacy for all patients seeking care in California. […]

ARGUMENTS IN OPPOSITION: The Right to Life League writes in opposition:

[…] [A]B 2091 will effectively grant immunity from foreign subpoenas to sexual abusers and human traffickers who coerce women and minors into pregnancy termination in other states then flee to California to avoid the legal consequences. SB 2091 is dangerous because it declares another state's court orders to have no effect, thwarting enforcement of foreign laws against abusers and human traffickers who may hide in California, denying justice to victims.

[A]B 2091 would remove consequences for proven abuse and neglect by extending legal protection to abusers fleeing other states, thereby covering the tracks of abortion coercion. The bill will embolden bad actors to exploit women. […]

ASSEMBLY FLOOR: 54-16, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca

Rubio, Salas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Voepel, Waldron
NO VOTE RECORDED: Berman, Choi, Cooley, Cunningham, Mayes, O'Donnell, Valladares, Villapudua

Prepared by: Amanda Mattson / JUD. / (916) 651-4113
8/26/22 15:41:19

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

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THIRD READING

Bill No: AB 2094
Author: Robert Rivas (D) and Quirk-Silva (D)
Amended: 8/24/22 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 8-0, 5/31/22
AYES: Wiener, Caballero, Cortese, McGuire, Ochoa Bogh, Skinner, Umberg, Wieckowski
NO VOTE RECORDED: Bates

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 65-0, 5/9/22 - See last page for vote

SUBJECT: General plan: annual report: extremely low-income housing

SOURCE: Author

DIGEST: This bill requires cities to include progress towards meeting their share of regional housing needs for extremely low-income (ELI) households in their annual progress report (APR).

Senate Floor Amendments of 8/24/22 resolve chaptering conflicts with AB 1743 (McKinnor), AB 2653 (Santiago), and AB 2011 (Wicks).

ANALYSIS:

Existing law:

1) Defines "extremely low income households" to mean persons and families whose incomes do not exceed the qualifying limits for extremely low-income families as established U.S. Department of Housing and Urban Development. Generally, this level is approximately 30% of area median income, adjusted for family size and revised annually.

2) Requires each city and county to draft and adopt a general plan, which must include a housing element, to shape the future growth of its community.

3) Requires each city and county to submit an APR to the Governor's Office of Planning and Research (OPR) and HCD by April 1 of each year. The report is to evaluate the general plan's implementation, including the housing element. The housing element evaluation includes a qualitative assessment of progress towards implementing programs that facilitate housing, and quantitative assessments of progress towards meetings its regional housing needs, including number of applications for housing and number of units permitted, by income level (very low-income, low-income, moderate-income, and above moderate-income).

This bill requires cities to include progress towards meeting their share of regional housing needs for ELI households in their APR.

Comments

1) *Author's statement.* "Many extremely low-income (ELI) households are dealing with widening income inequality, which is compounded by a severe housing shortage. About half of the people considered ELI are children and seniors, and almost half of working-age adults with extremely low incomes are essential workers. As the state continues to focus on addressing our housing and investing state dollars, we need to have a better understanding how these efforts help our extremely low-income households. The additional data AB 2094 will provide will help ensure that state policymakers are able to make the most informed decisions possible in this regard."

2) *Housing crisis and ELI households.* California's housing affordability crisis disproportionately affects lower income residents. This is because most lower income households are "cost burdened," in that the high cost of housing leaves insufficient money to pay for other household necessities, such as food, transportation, and health care. In California, nearly 90% of the state's nearly 2.4 million ELI residents are cost burdened. By comparison, 42% of moderate-income households (making between 80 to 120% of the area median income (AMI)) are cost burdened, and that figure drops to 11% of households making over 120% AMI. Further, because they are prone to housing insecurity, ELI residents are highly at risk of becoming homeless, or are already among the state's over 160,000 unhoused individuals.

3) *Housing elements and APRs.* Existing law requires every city and county to prepare a housing element as part of its general plan. This is done every eight years by local governments located within the territory of a metropolitan planning organization (MPO) and every five years by local governments in rural non-MPO regions. Each community's fair share of housing is determined through the regional housing needs allocation (RHNA) process, which is composed of three main stages: (1) the Department of Finance and HCD develop regional housing needs estimates; (b) councils of government (COGs) allocate housing within each region based on the estimates; and (c) cities and counties incorporate their allocations into their housing elements. The housing element must contain an inventory of land suitable for residential development, which is used to identify sites that can be developed for housing within the planning period and are sufficient to provide for the locality's share of the regional housing need for all income levels. Each jurisdiction must submit an APR to HCD documenting its progress toward meeting its RHNA allocation and the plans outlined in its housing element.

   This bill requires locals to include their progress towards meeting their share of regional housing needs for ELI households in their APR, which would add to the requirements to track progress for very low-income, low-income, moderate-income, and above moderate-income households.

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

SUPPORT: (Verified 8/22/22)

AIDS Healthcare Foundation
All Home
Bay Area Community Services
Bay Area Council
Board President Keith Carson, County of Alameda
California Apartment Association
California Housing Partnership Corporation
California Rural Legal Assistance Foundation
California YIMBY
City of Oakland
Councilmember Zach Hilton, City of Gilroy
County of San Mateo Board of Supervisors
Destination: Home
East Bay Housing Organizations
Glide Foundation

Housing Action Coalition
Housing California
Mayor Jesse Arreguin, City of Berkeley
Mayor Sam Liccardo, City of San Jose
Meta
MidPen Housing
Non-Profit Housing Association of Northern California
Orange County United Way
Saint Francis Foundation
Silicon Valley Community Foundation
SPUR
Supervisor Jim Spering, County of Solano
SV@Home Action Fund
The Two Hundred
The United Way of Greater Los Angeles
Western Center on Law & Poverty

OPPOSITION: (Verified 8/22/22)

None received

ASSEMBLY FLOOR: 65-0, 5/9/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Quirk, Ramos, Reyes, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Villapudua, Voepel, Waldron, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Boerner Horvath, Cunningham, Flora, Gray, Grayson, Haney, Lackey, Medina, Petrie-Norris, Quirk-Silva, Luz Rivas, Valladares, Ward

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
8/26/22 15:41:19

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2097
Author: Friedman (D), et al.
Amended: 8/24/22 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/15/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE HOUSING COMMITTEE: 6-1, 6/21/22
AYES: Wiener, Caballero, Cortese, McGuire, Roth, Skinner
NOES: Bates
NO VOTE RECORDED: Ochoa Bogh, Umberg

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 47-20, 5/26/22 - See last page for vote

SUBJECT: Residential, commercial, or other development types: parking requirements

SOURCE: Abundant Housing LA
Bay Area Council
California YIMBY
Council of Infill Builders
San Francisco Bay Area Planning and Urban Research Association

DIGEST: This bill prohibits public agencies from imposing or enforcing parking minimums on developments within ½ mile of a major transit stop, as specified.

Senate Floor Amendments of 8/24/22 prohibit a local agency from requiring that voluntarily provided parking must be provided to residents free of charge, make other technical changes, and include chaptering amendments.

ANALYSIS:

Existing law:

1) Allows a city or a county to "make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws." It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public, including land use authority.

2) Requires 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) Defines "Major transit stop" and "high-quality transit corridor" as follows:

   a) "Major transit stop" means a site containing any of the following:

      i) An existing rail or bus rapid transit station.

      ii) A ferry terminal served by either a bus or rail transit service.

      iii) The intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

   b) "High-quality transit corridor" means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours.

This bill:

1) Prohibits a public agency, including charter cities, from imposing or enforcing any minimum parking requirement on a residential, commercial, or other development project if the project is located within one-half mile of a major transit stop, as defined.

2) Allows, notwithstanding 1), a city or county to impose or enforce parking requirements if the local government demonstrates that not imposing parking requirements would have a substantially negative impact, supported by a preponderance of the evidence in the record, on any of the following:

a) The city's or county's ability to meet its share of the regional housing need for low- and very low income households.

b) The city's or county's ability to meet any special housing needs for the elderly or persons with disabilities, as specified.

c) Existing residential or commercial parking within one-half mile of the housing development project.

3) Provides, for a housing development project, that the ability to require parking in 2) does not apply to a project that satisfies either of the following:

a) The development dedicates a minimum of 20 percent of the total number of housing units to very low, low-, or moderate-income households, students, the elderly, or persons with disabilities.

b) The development contains fewer than 20 housing units.

c) The development is not subject to parking requirements based on the provisions of any other state law.

4) Excludes from the definition of "project" a project where any portion is designated for use as a hotel, motel, or other type of transient lodging, as specified.

5) Requires an event center, as defined, to provide parking as required by local ordinance for employees and other workers.

6) Provides that the bill does not reduce the requirement to provide electric vehicle supply equipment-installed parking spaces or accessible parking spaces that would have otherwise been required.

7) Provides that the bill does not apply to commercial parking requirements if it conflicts with an existing contractual agreement to provide parking spaces as of January 1, 2023, as specified.

8) States that a project may voluntarily build additional parking that is not shared with the public, and clarifies that public agencies may impose specified restrictions on voluntary parking, but specifies that a public agency may not require that voluntarily provided parking is provided to residents free of charge.

9) Adds the provisions of this bill to the list of laws that may be enforced by the Department of Housing and Community Development (HCD) and the Attorney General, as specified.

10) Defines its terms, incorporates chaptering amendments, and includes findings and declarations to support its purposes.

Background

Cities and counties generally establish requirements for a minimum amount of parking that developers must provide for a given facility or use, known as parking minimums or parking ratios. Local governments commonly index parking minimums to conditions related to the building or facility with which they are associated. For example, shopping centers may have parking requirements linked to total floor space, restaurants may be linked to the total number of seats, and hotels may have parking spaces linked to the number of beds or rooms.

In 2019, the California Air Resources Board (CARB) reviewed over 200 municipal codes and found that for nonresidential construction, an average of at least one parking space is installed for every 275 square feet of nonresidential building floor space. Accounting for the fact that approximately 60 percent of reviewed municipal codes already allow developers to reduce parking by an average of 30 percent, CARB staff estimated that between 1.4 million and 1.7 million new nonresidential parking spaces may be constructed from 2021-2024.

CARB also conducted a limited review of minimum parking requirements and found that parking requirements often result in an over-supply of parking. In reviewing 10 developments in Southern California, CARB noted that while most sites built exactly the minimum parking required by the local agency, the peak parking utilization at these sites ranged from 56 percent to 72 percent at each development, suggesting that the minimum requirements established by the local agency created an oversupply of parking.

Research on parking and its impacts. A number of sources have documented the harms associated with imposing parking requirements. Of particular interest given California's housing challenges is that parking requirements can increase the cost of production and render infeasible some projects, whether financially due to the cost of constructing parking or physically due to capacity limitations of some sites. For example, a recent study by Santa Clara University found that the cost of garage parking to renter households is approximately $1,700 per year, or an additional 17% of a housing unit's rent. Research has documented other harms associated

with parking minimums outside the housing context. According to the Terner Center for Housing Innovation:

> "Parking requirements have also been linked to a variety of negative secondary impacts, in particular the environmental costs for cities. Parking contributes to the urban heat island effect and does not support any biodiversity. Land coverage by asphalt increases stormwater runoff, which raises the risk of flooding and causes higher pollution levels in freshwater systems. Chemical compounds used to seal parking lots can seep into groundwater and freshwater systems, which contributes to pollution and decreases the health of these ecosystems. Because it encourages automobile usage, parking also hinders the effectiveness and usage of alternative forms of transit (public transportation, biking, etc.), increases congestion, and causes externalities like air pollution, noise pollution, and greenhouse gas emissions."

Various advocates want the Legislature to prohibit parking minimums near transit.

Comments

1) *Purpose of the bill.* According to the author, "It seems that for years California has been trading housing for parking. We're in the midst of a housing crisis, desperately looking for a solution, and we need to consider all options to reduce the overall cost of housing. There are plenty of communities in our state that have access to high-quality transit, or where cars are underutilized, that need housing far more than they need parking. Yet, many cities in California require new residential or commercial development to provide on-site parking spaces. Often, apartments must include one or two parking spots per unit, and commercial properties must provide one space for every 100-200 square feet (frequently causing more space to be provided for parking than for the business itself). These one-size-fits-all mandates are often imposed even in areas that are close to transit.

   "Mandatory parking requirements have led to an oversupply of parking spaces; Los Angeles County alone has 18.6 million parking spaces, or almost two for every resident. Experts believe that this policy encourages car dependence and discourages mass transit usage, increasing vehicle miles traveled. California needs to reduce vehicle miles traveled by 15% in order to meet its SB 32 climate goals, even in a scenario with full vehicle electrification. Mandatory parking requirements also worsen California's severe housing shortage by

raising the cost of housing production. On average, a garage costs $24,000-$34,000 per space to build, a cost that is passed on to households regardless of whether they own a car. Additionally, on-site parking takes up space that could otherwise be used for additional apartment units.

"AB 2097 does not prohibit property owners from building on-site parking. Rather, it would give them the flexibility to decide on their own how much on-site parking to provide, instead of requiring them to comply with a one-size-fits-all mandate."

2) *Home rule.* Development generates externalities: impacts to third parties that are not captured in the prices paid for goods and services. Developers have a profit motive to only include parking where it helps them sell or rent their properties to willing buyers or renters. Local officials, on the other hand, are elected to represent the interests of all their constituents and to look broadly at how new development might impact their community. For example, concerns over the encroachment of wildfire may prompt some local governments to impose parking requirements to ensure that streets are open for evacuation and emergency response. In other areas, particularly rural communities, public transit may not be a realistic option for many trips, even near major transit stops, due to the transit times required or lack of transit options near the final destination. And the state's Density Bonus Law, which is one of the main ways statute currently limits local parking requirements, allows a local government to impose higher parking requirements if the local government has funded an independent, jurisdiction-wide parking study in the past seven years. AB 2097 limits the ability of local governments to take into account the unique needs of their communities by constraining when they can impose parking requirements.

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

According to the Senate Appropriations Committee:

- The Department of Housing and Community Development (HCD) estimates cost of approximately $178,000 annually for 1.0 PY of staff to coordinate with local governments, provide guidance and technical assistance, investigate complaints, conduct enforcement actions, and make referrals to the Attorney General. (General Fund)

- Unknown, likely minor costs for the Attorney General (AG) to take enforcement actions against non-compliant cities and counties that fail to take corrective actions, to the extent HCD refers violations to the AG. (General Fund)

- Unknown local mandated costs. While the bill could impose new costs on local agencies to revise planning requirements for certain developments, these costs are not state-reimbursable because local agencies have general authority to charge and adjust planning and permitting fees to cover their administrative expenses associated with new planning mandates. (local funds)

SUPPORT: (Verified 8/25/22)

Abundant Housing LA (co-source)
Bay Area Council (co-source)
California YIMBY (co-source)
Council of Infill Builders (co-source)
San Francisco Bay Area Planning and Urban Research Association (co-source)
350 Bay Area
Active SGV
Alliance for Housing and Climate Solutions
Asian Business Association
BIZFED LA
California Apartment Association
California Building Industry Association
California Community Builders
California Hispanic Chamber Of Commerce
California Interfaith Power & Light
California Native Plant Society
Circulate San Diego
City of Berkeley Councilmember Lori Droste
City of Berkeley Councilmember Rashi Kesarwani
City of Culver City Councilmember Alex Fisch
City of Emeryville Councilmember John Bauters
City of Gilroy Councilmember Zach Hilton
City of La Mesa Councilmember Colin Parent
City of Petaluma Councilmember Brian Barnacle
City of Petaluma Councilmember Dennis Pocekay
City of Petaluma Councilmember Kevin Mcdonnell
City of San Mateo Councilmember Rick Bonilla
City of Santa Monica Councilmember Gleam Davis
City of Seaside Councilmember Jon Wizard
City of Sunnyvale Councilmember Alysa Cisneros
City of West Hollywood Councilmember John Erickson
CivicWell
Climate Action Campaign

Coalition for Clean Air
Culver for More Homes
Cupertino for All
Defenders of Wildlife
East Bay YIMBY
Eastside AHLA
Endangered Habitat League
Fieldstead and Company, Inc.
Fremont for Everyone
Generation Housing
Greenbelt Alliance
Grow the Richmond
Habitat for Humanity California
Housing Action Coalition
Humboldt County Supervisor Mike Wilson
Independent Hospitality Coalition
Innercity Struggle
Landwatch Monterey County
LISC San Diego
Los Angeles Area Chamber Of Commerce
Menlo Park Vice Mayor Jen Wolosin
MidPen Housing
Milpitas Councilmember Anthony Phan
Monterey Bay Economic Partnership
Mountain View Vice Mayor Lucas Ramirez
Mountain View YIMBY
New Way Homes
Northern Neighbors SF
Peninsula for Everyone
People for Housing OC
Progress Noe Valley
Safe Routes Partnership
San Francisco YIMBY
Sand Hill Property Company
Santa Cruz Climate Action Network
Santa Cruz YIMBY
Sequoia Riverlands Trust
Sierra Business Council
Sierra Club California
Silicon Valley Leadership Group

SLOCo YIMBY
Solano County Supervisor Jim Spering
South Bay YIMBY
Southside Forward
Streets for People
Sustainable Growth YOLO
The Los Angeles Coalition for the Economy & Jobs
The Two Hundred
TMG Partners
Trust for Public Land
Urban Environmentalists
Urban League San Diego
Valley Industry and Commerce Association
Ventura County Supervisor Carmen Ramirez
Westside for Everyone
Wildlands Network
YIMBY Action
YIMBY Democrats San Diego

OPPOSITION: (Verified 8/25/22)

California Rural Legal Assistance Foundation
Public Interest Law Project
Western Center on Law & Poverty

ASSEMBLY FLOOR: 47-20, 5/26/22
AYES: Aguiar-Curry, Bennett, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Cooper, Daly, Mike Fong, Fong, Friedman, Gabriel, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Low, McCarty, Medina, Mullin, Patterson, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bauer-Kahan, Bigelow, Boerner Horvath, Choi, Cooley, Cunningham, Megan Dahle, Davies, Flora, Levine, Mathis, Muratsuchi, Nguyen, Petrie-Norris, Salas, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Arambula, Berman, Gallagher, Cristina Garcia, Gray, Kiley, Lackey, Maienschein, Mayes, Nazarian, O'Donnell

Prepared by: Anton Favorini-Csorba / GOV. & F. / (916) 651-4119
8/26/22 15:41:20

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

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

THIRD READING

Bill No: AB 2098
Author: Low (D), et al.
Amended: 8/22/22 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 9-4, 6/27/22
AYES: Roth, Archuleta, Dodd, Eggman, Hurtado, Leyva, Min, Newman, Pan
NOES: Melendez, Bates, Jones, Ochoa Bogh
NO VOTE RECORDED: Becker

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 53-20, 5/26/22 - See last page for vote

SUBJECT: Physicians and surgeons: unprofessional conduct

SOURCE: California Medical Association

DIGEST: This bill makes disseminating misinformation, as defined, or disinformation related to COVID-19, including false or misleading information regarding the nature and risks of the virus, its prevention and treatment; and the development, safety, and effectiveness of COVID-19 vaccines, by a physician and surgeon unprofessional conduct.

Senate Floor Amendments of 8/22/22 update the definition of "misinformation".

ANALYSIS:

Existing law:

1) Regulates the practice of medicine under the Medical Practice Act (Act), which establishes the Medical Board of California (MBC) to administer and enforce the Act. (Business and Professions Code (BPC) § 2000 *et. seq.*)

2) Enacts the Osteopathic Act, which provides for the licensure and regulation of osteopathic physicians and surgeons. (BPC §§ 2450 et seq.)

3) Provides that protection of the public shall be the highest priority for both the MBC and the Osteopathic Medical Board of California (OMBC) in exercising their respective licensing, regulatory, and disciplinary functions, and that whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. (BPC § 2001.1; § 2450.1)

4) Provides that all proceedings against a licensee for unprofessional conduct, or against an applicant for licensure for unprofessional conduct or cause, shall be conducted in accordance with the Administrative Procedure Act. (BPC § 2230)

5) Establishes various violations that constitute unprofessional conduct. (BPC §§ 725 *et. seq)*

6) Requires the MBC to take action against any licensee who is charged with unprofessional conduct, which includes, but is not limited to, the following:

   a) Violating or aiding in the violation of the Medical Practice Act.
   b) Gross negligence.
   c) Repeated negligent acts.
   d) Incompetence.
   e) The commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician.
   f) Any action or conduct that would have warranted the denial of a certificate.
   g) The failure by a physician, in the absence of good cause, to attend and participate in an investigatory interview by the MBC. (BPC § 2234)

7) Provides that a physician shall not be subject to discipline solely on the basis that the treatment or advice they rendered to a patient is alternative or complementary medicine if that treatment or advice was provided after informed consent and a good-faith prior examination; was provided after the physician provided the patient with information concerning conventional treatment; and the alternative complementary medicine did not cause a delay in, or discourage traditional diagnosis of, a condition of the patient, or cause death or serious bodily injury to the patient. (BPC § 2234.1)

This bill:

1) Provides that it is unprofessional conduct for a physician and surgeon to disseminate misinformation or disinformation related to COVID-19, including:

false or misleading information about the nature and risks of the virus; COVID-19 prevention and treatment; and the development, safety, and effectiveness of COVID-19 vaccines.

2) Defines the following:

   a) ”Board” means the MBC or OMBC.
   b) “Disinformation” means misinformation that the licensee deliberately disseminated with malicious intent or an intent to mislead.
   c) “Disseminate” means the conveyance of information from the licensee to a patient under the licensee’s care in the form of treatment or advice.
   d) “Misinformation” means false information that is contradicted by contemporary scientific consensus contrary to the standard of care.
   e) “Physician and surgeon” means person licensed by the MBC or OMBC.

3) Specifies that violators of these provisions are not guilty of a misdemeanor.

4) Makes findings and declarations about the impacts of COVID-19, information about COVID-19 vaccines, and impacts of misinformation and disinformation about COVID-19 vaccines

Background

COVID-19 Misinformation and Disinformation. In March 2020, Governor Newsom declared a State of Emergency due to the COVID-19 pandemic that was beginning to spread widely. In December 2020, an emergency-approved COVID-19 vaccine began to roll out first to the aging population and healthcare professionals and eventually to all adults, and now all children. While scientists began working on creating the vaccine, misinformation and disinformation spread widely. CDC makes the distinction that misinformation is shared by people who not intend harm and disinformation is false information to deliberately disseminate with malice. This bill makes a distinction, but does not differentiate consequences for doctors.

Misinformation has resulted in less than desired vaccine rates, continued unnecessary spread and risk to communities. Reports show that as of June 21, 2022, only 75.6% of people 5 and older are fully vaccinated. Yale Medicine reports that a community needs 95% of the population to reach herd immunity. Part of the low vaccine rate is attributed to misinformation causing fear about potential side effects. Researchers at the Center for Health Security at the Johns Hopkins Bloomberg School of Public Health recently estimated that two million to

12 million people in the US were unvaccinated against COVID-19 because of misinformation or disinformation.

In November 2021, the American Medical Association adopted a new policy to combat misinformation because "[health professional] using their professional license to validate the disinformation they are spreading has seriously undermined public health efforts". The CDC and State Public Health Officials have published a myths and facts page to clarify misinformation. Origination of misinformation is not clear; however, the White House reported in 2021 that much of the COVID-19 vaccine misinformation began with a number of online social media users.

Physicians and healthcare professionals play a critical role in keeping communities healthy. A physician's recommendation and information sharing will educate and inform decisions made by their patients. As such, providing accurate information will ultimately impact patient's health. NPR reported that, "The Center for Countering Digital Hate, which tracks vaccine misinformation online, says that even though the number of doctors involved in spreading this sort of bad information is tiny, they're having an outsized influence." This bill explicating holds physicians accountable for providing misinformation or disinformation about COVID-19 vaccines. This bill does not, however, include other healthcare professionals which have also been reported as spreading misinformation and disinformation.

Comments

According to MBC, it "faces considerable challenges investigating cases involving a violation of the [Act] related to COVID-19. Oftentimes, complaints received by the Board pertaining to COVID-19 are made by a member of the public and not the patient of the physician. In some COVID-19 related investigations, the Board is unable to identify any specific patients who have been treated by the physician in question. Without a patient's name, it is impossible to obtain their consent for records and the Board will be unable to identify what patient records to seek in an investigative subpoena." MBC notes that its request for enhanced authority to inspect medical records would assist in overcoming this challenge.

Physicians and surgeons are not the only licensed health care providers licensed who may engage in practices that this bill seeks to address. In 2022, the Senate Business, Professions, and Economic Development Committee, in coordination with the Assembly Committee on Business and Professions, asked questions through the sunset review oversight process about efforts health care licensing programs are undertaking in order to curb the spread of medical misinformation. One example was highlighted in a staff prepared background paper for the sunset

review oversight of the Board of Chiropractic Examiners noting that in Spring 2020, that board reported that several complaints were received about licensed doctors of chiropractic who were advertising that chiropractic care can help patients reduce their risk of COVID-19 infection. That board investigated the complaints, and the licensees subsequently removed advertisements from their websites. Given that many additional licensed health care providers also have a "high degree of public trust and therefore must be held accountable for the information they spread", as the author notes for physicians and surgeons in identifying the rationale for this bill, it is unclear why only one category of professional would be specified through statue designating their activities as unprofessional conduct.

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

According to the Senate Appropriations Committee, OMBC estimates a fiscal impact of $10,000 and MBC anticipates any fiscal impact to be absorbable within existing resources as the board currently implements an allegation code for COVID-19 related complaints and tracks discipline related to unprofessional conduct. Actual enforcement costs to the MBC and OMBC are indeterminate and would depend on the volume of complaints received specific to COVID-19 misinformation and disinformation, as well as the complexity of any subsequent investigations. The Office of Information Services within the Department of Consumer Affairs estimates $1,600 for workload associated with making information technology changes.

SUPPORT: (Verified 8/22/22)

California Medical Association (source)
American Academy of Pediatrics, California
American College of Emergency Physicians, California Chapter
American College of Obstetricians and Gynecologists District IX
California Podiatric Medical Association
California Rheumatology Alliance
California Society of Anesthesiologists
Children's Specialty Care Coalition
County Health Executives Association of California
Families for Opening Carlsbad Schools
Pandemic Patients
Protect US
Teens for Vaccines, Inc.

OPPOSITION: (Verified 8/22/22)

A Voice for Choice Advocacy
Association of American Physicians and Surgeons
California Health Coalition Advocacy
Californians for Good Governance
Catholic Families 4 Freedom, California
Central Coast Health Coalition
Children's Health Defense California Chapter
Coalition for Informed Consent
Concerned Women for America
Depression and Bipolar Support Alliance, California
Educate. Advocate.
Family Details LLC
Frederick Douglass Foundation of California
Freedom Keepers United, California Freedom Keepers
Front Line Covid-19 Critical Care Alliance
Homewatch Caregivers of Huntington Beach
Natomas USD for Freedom
Not On Our Watch
Nuremberg 2.0 Ltd.
Pacific Justice Institute
Physicians for Informed Consent
Protection of the Educational Rights for Kids
Real Impact.
Restore Childhood
Siskiyou Conservative Republicans
Stand Up Sacramento County
Towards an Internet of Living Beings
Whittier Parents for Choice

ARGUMENTS IN SUPPORT: Supporters write that licensed physicians possess a high degree of public trust and therefore have a powerful platform in society. When they choose to spread inaccurate information, physicians contradict their responsibilities and further erode public trust in the medical profession. By passing this bill, California will demonstrate its unwavering support for a scientifically informed populous to protect ourselves from COVID-19. The California Medical Association notes that "While the MBC may have the ability to discipline licensees for unprofessional conduct under Business and Professions Code section 2234, AB 2098 makes clear that the MBC has the statutory authority to take such actions against physicians that spread COVID-19 misinformation or disinformation."

Supporters state that health misinformation is a serious threat to public health that can cause confusion, sow mistrust, harm people's health, and undermine public health efforts.

ARGUMENTS IN OPPOSITION: According to A Voice for Choice Advocacy, "While we agree that physicians and surgeons should be disciplined for maliciously sharing misinformation and disinformation, there are already measures in place for the California Medical Board to discipline for such offenses. Furthermore, AB 2098 is overly broad and would be impossible to implement because there is no definition and no established 'standard of care' or 'contemporary scientific consensus' for treating SARS-COV-2/COVID-19." Opponents also note that doctors should be allowed to voice their medical and professional opinions freely and state that an unintended consequence of this bill might be that the healthcare provider shortage would be exacerbated. Opponents also express concerns about unconstitutional restrictions on free speech.

ASSEMBLY FLOOR: 53-20, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cooley, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Grayson, Mayes, Nazarian, O'Donnell

Prepared by: Sarah Mason / B., P. & E.D. /
8/23/22 13:23:09

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

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THIRD READING

Bill No: AB 2106
Author: Robert Rivas (D) and Cristina Garcia (D), et al.
Amended: 8/24/22 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-2, 6/29/22
AYES: Allen, McGuire, Skinner, Stern, Wieckowski
NOES: Bates, Dahle

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 50-21, 5/25/22 - See last page for vote

SUBJECT: Water quality: permits

SOURCE: California Coastkeeper Alliance

DIGEST: This bill requires the State Water Resources Control Board (State Water Board) to update its stormwater data collection systems and software and, contingent upon appropriation by the Legislature, to establish a statewide commercial, industrial, and institutional (CII) national pollutant discharge elimination system (NPDES) order.

Senate Floor Amendments of 8/24/22 specify that the statewide CII NPDES order applies to CII facilities with impervious surfaces, require the State Water Board to develop a model memorandum of understanding (MOU) detailing the necessary components for an agreement between CII permittees and municipalities for offsite stormwater capture and use, and require the State Water Board to issue the model MOU with the draft order.

ANALYSIS:

Existing law:

1) Establishes the federal Clean Water Act (CWA) to regulate discharges of pollutants into the waters of the United States and to regulate quality standards for surface waters. The federal CWA makes it unlawful to discharge any pollutant from a point source into navigable waters, unless a permit was obtained, and establishes a structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters. (33 United States Code (U.S.C.) §1251 et seq.)
   a) Establishes the National Pollutant Discharge Elimination System (NPDES) permit program which regulates point source discharges of pollutants into US waters. An NPDES permit sets specific discharge limits for point sources discharging pollutants into US waters and establishes monitoring and reporting requirements as well as special conditions. Point sources are discrete conveyances such as pipes or man-made ditches. (Individual homes that are connected to a municipal system, use a septic system, or do not have a surface discharge do not need an NPDES permit; however, industrial, municipal, and other facilities must obtain permits if their discharges go directly to surface waters.).
   b) States are authorized to implement and enforce the NPDES permit program as long as the state's provisions are as stringent as the federal requirements. In California, the State Water Resources Control Board (State Water Board) is the delegate agency responsible for the NPDES permit program. (22 U.S.C. Sec. 1251 et seq.)

2) Establishes, under the Porter-Cologne Water Quality Control Act (Porter-Cologne), the State Water Board and regional water quality control boards (regional boards) to preserve, enhance, and restore the quality of California's water resources and drinking water for the protection of the environment, public health, and all beneficial uses, and to ensure proper water resource allocation and efficient use, for the benefit of present and future generations. (Water Code (Wat. C.) § 13000 et seq.)

3) Requires the State Water Board to develop minimum standard monitoring requirements for municipalities subject to a stormwater permit and industries that are subject to the General Permit for Stormwater Discharges Associated with Industrial Activities Excluding Construction Activities, which is known as the Industrial General Permit (IGP).

This bill:

1) Requires the State Water Board, by December 31, 2025, to update its stormwater data collection systems and software to do the following:
   a) Reduce regulatory costs associated with permittee reporting requirements and data entry.
   b) Improve efficient enforcement and track permittee compliance through increased accessibility to permit requirement, compliance data, and permittee compliance status.
   c) Include permittee-level and site- and facility-level tracking and accounting of how best management practices reduce pollutant loading to receiving waters.
   d) Include geographic information system data to elevate progress toward stormwater program compliance.

2) Requires the State Water Board, after making specific findings and contingent upon appropriation by the Legislature, to establish a statewide CII NPDES order regulating stormwater and authorized nonstormwater discharges from facilities with impervious surfaces that are significant contributors of pollutants to federally protected surface waters and to publish a draft order of the statewide order for public comment on or before December 31, 2026, or 18 months after the reissuance of the Statewide General Permit for Stormwater Discharges Associated with Industrial Activities, as specified.
   a) Requires the State Water Board to contemporaneously develop a model memorandum of understanding to issue with the publication of the draft statewide order for public comments that details the necessary components of an agreement between CII permittees and local municipalities for achieving offsite stormwater capture and use within the adopted final statewide CII NPDES order.
   b) Prohibits regulated stormwater permittees from being subject to more than one stormwater NPDES order for the same facility. Requires all effluent limitations applicable to stormwater discharges associated with industrial activities to be incorporated into the statewide CII order. Does not apply these provisions to stormwater discharges associated with construction activities.

3) Requires, on or before January 31, 2025, the State Water Board to initiate a series of board workshops to evaluate the California stormwater program and the state's progress toward attainment of beneficial uses and compliance with water quality standards as they pertain to permits issued pursuant to the federal CWA.

4) Requires, on or before December 31, 2026, the State Water Board to develop and submit to the Legislature a report evaluating the state's progress toward, and recommendations to achieve, attainment of beneficial uses and compliance with water quality standards. Requires the report to include recommendations to ensure permitting of stormwater discharges protects and supports attainment of beneficial uses and results in water quality objectives. For purposes of developing these recommendations, limits the State Water Board's evaluation to the following:
   a) Strategies to ensure stormwater permit requirements are simple and objective, focusing on improving water quality, and determine permittee compliance.
   b) Mechanisms to ensure stormwater programs address environmental justice and racial inequities within the state's water quality policies and permits to ensure disadvantaged and tribal communities are not disproportionately impacted by poorly managed stormwater.
   c) Source control measures the state could implement including a stakeholder working group to evaluate the potential for a statewide program, as specified.
   d) Strategies to reduce the compliance costs created by unnecessary permit requirements that do not result in improved water quality or are not necessary to demonstrate permit compliance.
   e) Policies to regulate or incentivize the one-water concept, as defined by the bill.
   f) A dedicated source of stormwater funding and increasing supplemental funding opportunities for local stormwater programs.
   g) The use of spatially based stormwater information management systems to manage, visualize, and report program compliance data.
   h) Opportunities to better identify and enroll nonfilers into the applicable stormwater NPDES order.
   i) Solutions to identify unknown sources of water quality impairments.

Background

1) *Protecting Water Quality in California.* Porter-Cologne, enacted in 1969, established the State Water Board, along with nine regional boards, and gave those agencies primary responsibility for the coordination and control of water quality. The State Water Board establishes statewide policy. The regional boards formulate and adopt water quality control plans and issue permits governing the discharge of waste.

Porter-Cologne requires any person discharging, or proposing to discharge, waste that could affect the quality of state waters to file a report with the appropriate regional board. The regional board then prescribes requirements as to the nature of the discharge, implementing any applicable water quality control plans.

CWA, enacted in 1972, established the NPDES permit system. CWA is a comprehensive water quality statute designed to restore and maintain the chemical, physical, and biological integrity of the nation's waters. CWA prohibits pollutant discharges unless they comply with: (a) a permit; (b) established effluent limitations or standards; or (c) established national standards of performance. CWA allows any state to adopt and enforce its own water quality standards and limitations, so long as those standards and limitations are not less stringent than those in effect under CWA.

2) *Regulation of stormwater discharge*. Stormwater is defined by the US EPA as the runoff generated when precipitation from rain and snowmelt flows over land of impervious surfaces such as paved streets, parking lots, and building rooftops, without percolating into the ground. Water runoff from cities, highways, industrial facilities, and construction sites can carry pollutants, such as oil, pesticides, herbicides, sediment, trash, bacteria, and metals, that harm water quality and impair the beneficial uses of California waters. The State Water Board and US EPA regulate the runoff and treatment of stormwater in industrial, municipal, and residential areas of California. In most cases, stormwater flows directly to water bodies through sewer systems, contributing to a major source of pollution to rivers, lakes, and the ocean. Most stormwater discharges are considered point sources and require coverage by an NPDES permit.

   The State Water Board and regional boards are responsible for regulating stormwater discharges under CWA and the NPDES permit program. The NPDES stormwater program regulates some stormwater discharges from three potential sources: municipal separate storm sewer systems (MS4s), construction activities, and industrial activities. The Industrial General Permit (IGP) regulates industrial storm water discharges and authorized non-stormwater discharges from industrial facilities in California. The IGP is called a general permit because many industrial facilities are covered by the same permit, but comply with its requirements at their individual industrial facilities.

   Dischargers whose projects disturb one or more acres of soil or whose projects disturb less than one acre but are part of a larger common plan of development

that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity. Construction activity subject to this permit includes clearing, grading and disturbances to the ground such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development of a Storm Water Pollution Prevention Plan (SWPPP) by a certified Qualified SWPPP Developer (QSD).

The Municipal Storm Water Program regulates storm water discharges from MS4s throughout California. US EPA defines an MS4 as a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned or operated by a state (40 CFR 122.26(b)(8)).

The State Water Board also manages an online database, the Stormwater Multiple Application and Report Tracking System (SMARTS), that allows permittees to electronically submit permit compliance data, and allows the public to view reports and information on water quality control efforts with stormwater.

3) *Why Is Stormwater Pollution A Problem?* Stormwater pollution is a major environmental and public health issue. It leads to unsanitary living environments, unhealthy surface waters, such as lakes, creeks and rivers, unhealthy ocean and beach conditions, and street and neighborhood flooding during the rainy season. It's created when trash, cigarette butts, animal waste, pesticides, motor oil, and other contaminants left on the ground are washed or thrown directly into storm drains. This toxic soup mixes with millions of gallons of rainwater and flows untreated into local creeks, rivers, and the ocean - polluting our waterways, as well as degrading neighborhoods and other natural resources. However, stormwater can also act as a resource and recharge groundwater when properly managed.

4) *Federal court case on stormwater pollution and regulation.* In *Los Angeles Waterkeeper v. Pruitt* (320 F.Supp.3d 1115), various environmental organizations brought a suit against the Environmental Protection Agency (EPA) for EPA's failure to engage in NPDES Permitting process with regard to unpermitted stormwater discharges from privately-owned CII sources that were contributing to violations of water quality standards in the Dominguez Channel and Los Angeles/Long Beach Inner Harbor watershed, and the Los Cerritos Channel and Alamitos Bay watershed. In the Central District, United States

District Court opinion, the court stated "once EPA determined 'there are sufficient data available to demonstrate that stormwater discharges are continuing to the water quality impairments in the [Watersheds], the statute *required* EPA to engage in the permitting process or prohibit the discharge. … But EPA left the stormwater discharges at issue unregulated in violation of the Clean Water Act' " (emphasis included) (Id. at pp. 1123). The court went on to state that "the [CWA] unambiguously requires EPA to engage in the permitting process where it has determined that stormwater discharges contribute to a water quality violation." (Id).

Currently, the Los Angeles Regional Water Board and the US EPA are considering regulatory requirements for stormwater runoff from certain CII facilities in the Dominguez Channel/Greater Los Angeles and Long Beach Harbor Watershed and the Los Cerritos Channel/Alamitos Bay Watershed to reduce pollutant levels in stormwater runoff that flows from these facilities.

Comments

1) *Purpose of Bill.* According to the author, "AB 2106 will modernize California's stormwater program by making several key changes to improve water quality while also reducing the compliance burden on permittees.

*"*First, AB 2106 will require the State Water Board to conduct a holistic review of the state's stormwater program aimed at improving environmental outcomes while lowering compliance costs. This process will incorporate feedback from all interested stakeholders and put the state back on track to restore our waterways.

*"*Second, AB 2106 will improve the State Water Board's data collection systems. The status quo puts the onus on permittees to collect large amounts of data, which can be expensive and time-consuming. But because the Water Board's existing data collection systems are so outdated, a large amount of that data can't ultimately be used. AB 2106 will create a simplified, streamlined data collection system that will reduce costs but improve results.

*"*Finally, AB 2106 will require the State Water Board to issue a new order regulating stormwater from facilities with large parking lots, rooftops, or other paved surfaces that are not currently regulated. A federal court ordered the Los Angeles region to address the toxic metals, oil, and grease coming off these parking lots in 2018, but the problem persists, leaving municipalities unfairly responsible for addressing pollution that they did not cause. Regulation of

stormwater from all sources will ensure that costs of compliance are distributed evenly across permittees and achieve better results for the environment.

"Together, these changes will ensure reductions in water pollution in California's most disadvantaged communities while simplifying the stormwater permitting process and reducing compliance costs on many permittees."

2) *Expanding stormwater management*. Currently, the State Water Board regulates stormwater discharge of MS4s, construction activities, and industrial activities under a NPDES permit. AB 2106 requires the State Water Board, contingent upon appropriation, to establish a statewide CII NPDES order for CII facilities with impervious surfaces that are significant contributors to pollutants to federally protected surface areas.

   Stakeholders point to the potential for overlap between industrial activities that are currently covered by a GPI permit and the industrial activities that would be covered by the CII permit. This will likely be resolved by the State Water Board through the regulatory process, which includes stakeholder participation. Additionally, the bill explicitly prohibits stormwater permittees from being regulated by more than one permit for the same facility.

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

According to the Senate Appropriations Committee:

- One-time costs of in the low millions of dollars (Waste Discharge Permit Fund [WDPF]) for the State Water Board to implement modernization of stormwater data collection systems, update existing stormwater permits for compliance, and report to the Legislature.

- One-time cost pressure in the low millions of dollars (General Fund or WDPF) for State Water Board staff resources to develop and implement the statewide CII permit, including administrative and legal support as well as staff resources to support the workshops as well as to conduct research and analyze the effects of existing stormwater permits on water quality compliance. The WDPF is supported by fee revenue from municipal local governments as well as businesses and other organizations undertaking certain construction and/or industrial activities. Existing law requires the State Water Board to adjust the fees annually to conform to the revenue levels set forth in the Budget Act. This bill could potentially result in future fee increases in order to offset Water Board costs. It could also create General Fund cost pressures to offset fee increases.

- To the extent the implementation and enforcement of the statewide CII order results in non-absorbable workload at the State Water Board, this bill could result in additional ongoing costs (WDPF and General Fund). Costs and any related fee increases could potentially be at least partially offset by revenue from fees on the new CII permits once issued. Staff also notes that the recommendations of the report that would be required by this bill are likely to result in ongoing cost pressures, especially given the requirement to include a recommendation on dedicated stormwater funding to supplement local programs.

SUPPORT: (Verified 8/23/22)

California Coastkeeper Alliance (source)
7th Generation Advisors
Association of California Water Agencies
California Council for Environmental & Economic Balance
California Environmental Voters
Climate Action Campaign
Coachella Valley Waterkeeper
Coast Action Group
Coastal Environmental Rights Foundation
Environmental Center of San Diego
Friends of The River
Greenbelt Alliance
Heal the Bay
Humboldt Baykeeper
Inland Empire Waterkeeper
Laane (Los Angeles Alliance for A New Economy)
Los Angeles Waterkeeper
Mono Lake Committee
Monterey Coastkeeper
North Bay Jobs With Justice
Orange County Coastkeeper
Ourwaterla Coalition
Preserve Rural Sonoma County
San Diego Coastkeeper
Santa Barbara Channelkeeper
Santa Clara Valley Water District
Save the Bay
Sierra Club California
Social Eco Education

Sonoma County Conservation Action
Sonoma Ecology Center
Surfrider Foundation
The Otter Project
Waterkeeper Alliance
Western Sonoma County Rural Alliance
Yuba River Waterkeeper

OPPOSITION: (Verified 8/24/22)

Antelope Valley Chambers of Commerce
Building Owners and Managers Association of California
California Business Properties Association
California Business Roundtable
California Chamber of Commerce
California Grocers Association
California Stormwater Quality Association
Carlsbad Chamber of Commerce
Chico Chamber of Commerce
Gilroy Chamber of Commerce
Greater Coachella Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Imperial Valley Regional Chamber of Commerce
LA Canada Flintridge Chamber of Commerce
Livermore Valley Chamber of Commerce
Lodi Chamber of Commerce
Los Angeles County Business Federation
Los Angeles County Sanitation Districts
Los Gatos Chamber of Commerce
Modesto Chamber of Commerce
NAIOP California
Oceanside Chamber of Commerce
Palos Verdes Peninsula Chamber of Commerce
Rancho Cordova Chamber of Commerce
Rebuild Socal Partnership
Santa Clarita Valley Chamber of Commerce
Santee Chamber of Commerce
Torrance Area Chamber of Commerce
Tulare Chamber of Commerce
Western Plant Health Association

ARGUMENTS IN SUPPORT: According to the Santa Clara Valley Water District, "Currently, California's stormwater program does not regulate discharge from commercial, industrial, and institutional sources, even though the effluent from these large commercial and industrial facilities largely contribute to stormwater pollution. Establishing a statewide order would bring greater enforcement and regulation of pollution, would further contribute to the sustainable management and use of stormwater, would promote source control, and would help to identify sources of dedicated and supplemental stormwater funding."

ARGUMENTS IN OPPOSITION: According to the California Chamber of Commerce, "The permit required by AB 2106 will apply to an unknown number of entities, but likely hundreds of private and public entities throughout the state. The scope of affected entities is unbounded. This, in turn, means that the State Water Board will be burdened with an enormous regulatory program that would need to be developed from the ground up, implemented, and enforced. This program will bring a huge number of entities and facility types that were not previous permitted by the State water Board and will require significant resources to administer."

ASSEMBLY FLOOR: 50-21, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Kiley, Lackey, Mathis, Mayes, Nguyen, Patterson, Salas, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Choi, Cooper, Daly, Grayson, O'Donnell, Ramos

Prepared by: Genevieve M. Wong / E.Q. / (916) 651-4108
8/26/22 15:41:21

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

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THIRD READING

Bill No: AB 2107
Author: Flora (R)
Amended: 8/23/22 in Senate
Vote: 27 - Urgency

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 13-0, 6/13/22
AYES: Roth, Melendez, Bates, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Archuleta

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 76-0, 5/25/22 - See last page for vote

SUBJECT: Clinical laboratory testing

SOURCE: Author

DIGEST: This bill proposes an urgency measure which to expand the clinical laboratory practice of licensed clinical genetic molecular biologist scientists to include molecular biology techniques to perform a clinical laboratory test or examination for the detection of any disease affecting humans.

Senate Floor Amendments of 8/23/22 remove language authorizing a trained adult to perform CLIA-waived infectious disease tests, and allow a person licensed as a clinical genetic molecular biologist scientist, instead of a person licensed as a clinical genetic molecular biologist, to use molecular biology techniques to perform a clinical laboratory test or examination for the detection of any disease affecting humans. Amendments also resolve chaptering conflicts with SB 1267 (Pan).

ANALYSIS: Existing federal law establishes CLIA and defines a clinical laboratory as a facility for the analysis of materials derived from the human body

in order to assess the health of, or to diagnose, prevent, or treat disease of, human beings. (42 United States Code (USC) § 263a(a))

Existing state 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. (BPC §§ 1200-1327)

2) Defines "CLIA" as the federal Clinical Laboratory Improvement Amendments of 1988 (United States Code, Title 42, § 263a; Public Law 100-578) and the regulations adopted by the federal Health Care Financing Administration (HFCA) that are effective on January 1, 1994, or later when adopted by the CDPH after being deemed equivalent to or more stringent than California laws or regulations, as specified. (BPC §§ 1202.5(a), 1208(b))

3) Defines "clinical laboratory" as 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. (BPC § 1206(a)(8))

4) Prohibits any person from performing a clinical laboratory test classified as waived under CLIA unless performed under the overall operation and administration of the laboratory director and the test is performed by specified licensees or individuals outlined in statute. (BPC § 1206.5)

5) Defines "clinical chemist scientist," "clinical microbiologist scientist," "clinical toxicologist scientist," "clinical immunohematologist scientist," "clinical genetic molecular biologist scientist," "clinical cytogeneticist scientist," and "clinical histocompatibility scientist" means any person, other than a person licensed to direct a clinical laboratory, or licensed as a clinical laboratory scientist or trainee, licensed by the CDPH to engage in, or to supervise others engaged in, limited to the person's area of specialization. (BPC § 1210)

6) Specifies the limitation of each category of specialty or subspecialty, including:

    a) For a person licensed as a clinical microbiologist scientist, the specialty of microbiology and the subspecialties of bacteriology, mycobacteriology, mycology, parasitology, virology, or molecular biology and serology for diagnosis of infectious diseases, or other specialty or subspecialty specified by regulation adopted by CDPH. (BPC § 1210(b)(2))

b) For a person licensed as a clinical genetic molecular biologist scientist, the subspecialty of molecular biology related to the diagnosis of human genetic abnormalities within the specialty of genetics, or other specialty or subspecialty specified by regulation adopted by CDPH. (BPC § 1210(b)(4))

This bill:

1) Authorizes a clinical genetic molecular biologist scientist to additionally use molecular biology techniques to perform clinical laboratory testing or examination for the detection of any disease affecting humans.

2) Adds a section to this bill which also incorporates amendments to BPC § 1210 proposed by both this bill and SB 1267. This section of this bill shall only become operative if (a) both bills are enacted and become effective on or before January 1, 2023, (b) each bill amends BPC § 1210, and (c) this bill is enacted after SB 1267, in which case Section 1 of this bill shall not become operative.

3) Specifies that this act 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. This urgency statute is required in order to maintain the health care workforce necessary to continue to administer and process tests for the COVID-19 virus if the Governor's Emergency Order relating to the COVID-19 global pandemic expires or is rescinded, it is necessary for this act to take effect immediately.

Background

Federal and State Regulation for Clinical Laboratory Testing. A facility that performs laboratory tests on human specimens for diagnosis or assessment must be certified under CLIA. CLIA certification requirements vary depending on the complexity of the laboratory tests performed.

Clinical laboratories or other testing sites need to know whether each test system used is waived, moderate, or high complexity. In general, the more complicated the test, the more stringent the requirements, including increased training and licensing of laboratory personnel. At a minimum, all laboratories must have a licensed clinical laboratory director. The FDA determines the complexity of CLIA laboratory tests. Waived tests are simple tests with a low risk for an incorrect result. They include tests listed in the CLIA regulations, tests cleared by the FDA for home use, and tests approved for waiver by the FDA using the CLIA criteria. Tests not classified as waived are assigned a moderate or high complexity category

based on seven criteria given in the CLIA regulations, including ease of use, knowledge required, and types of materials tested. For commercially available FDA-cleared or approved tests, the test complexity is determined by the FDA during the pre-market approval process.

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 or as part of a nondiagnostic health assessment program under the overall direction of a laboratory director, unless otherwise limited. In applying for a CLIA certificate of waiver, the laboratory director must list the types of analytes to be tested, the tests performed, and the test manufacturer.

According to the American Society for Clinical Laboratory Science (ASCLS), 11 states, including California, and Puerto Rico require licensure of clinical laboratory personnel. In California there are around 28,500 licensed laboratory personnel, with a projected increase to 34,400 by 2028.

California Department of Public Health (CDPH) and Laboratory Field Services. CDPH regulates clinical laboratories that analyze human specimens such as blood, tissue and urine through Laboratory Field Services (LFS). The mission of LFS is to "ensure quality standards in clinical and public health laboratories and laboratory scientists through licensing, examination, inspection, education, and proficiency testing." This branch of CDPH is a fee-supported program that sets requirements for education and training, including the approval of training programs and national certification examinations. Also included in their duties is the issuing of licenses for clinical laboratory: trainees, technicians, scientists, and laboratory directors.

Molecular Biology and Microbiology. California law limits the practice of clinical laboratory licensees to the specific scientific disciplines outlined by their license type, rather than by testing technique. This bill would authorize a licensed clinical genetic molecular biologist scientist to perform laboratory tests related to molecular biology within microbiology, which is currently limited to licensed clinical microbiologist scientists.

Molecular biology studies biology on a molecular level, including the structure, function, and makeup of biologically important molecules such as proteins (enzymes, antibodies, structural proteins, etc.), neurotransmitters, hormones, genes and genetic material, and other molecules of interest.

Genetic molecular biology is a subspecialty of molecular biology which focuses on the study of genes and genetic material such as DNA and RNA, its cellular activities such as DNA replication, and its influence in determining the overall makeup of an organism. In clinical laboratories, genetic molecular biologists assess biological specimens such as blood, saliva, tissues, etc. to detect genetic abnormalities, genetic indicators for disease risk, and monitoring of genetic changes due to disease. Genetic molecular biologists use techniques such as polymerase chain reaction (PCR), genetic sequencing, and other biological assays.

Microbiology is the study of microscopic organisms, such as bacteria, viruses, archaea, fungi, protozoa, and parasites. Clinical microbiology studies infectious organisms so that infections can detected, prevented, and treated in patients. Many of the laboratory tests used by microbiologists are molecular tests to detect biologically relevant molecules associated with a pathogen or other infectious organism. For example, PCR tests are commonly used to detect the presence of genetic material associated with viruses, such as the SARS-CoV-2 virus which causes COVID-19, and high-throughput PCR testing protocols (such as real-time PCR) can also be used to spot mutations and genetic variants in a virus.

Despite both genetic molecular biologist scientists and microbiologist scientists using similar clinical laboratory techniques, California law stipulates that these two licensee types may only engage in, or supervise others engaged in, tests relevant to their specific type, rather than testing technique. Therefore, a microbiologist scientist may perform or supervise techniques such as PCR only in the context of microbiology, and a genetic molecular biologist scientist may only perform or supervise PCR to diagnose human genetic abnormalities.

Executive Order N-25-20. To increase the testing capacity of the clinical laboratory workforce during the COVID-19 pandemic, the Governor waived the certification and licensure requirements relating to public health microbiology and, among other things, the limitations related to specialties and subspecialties, allowing anyone qualified to perform high-complexity tests under CLIA to perform high complexity tests within any specialty. This order specifically allowed all such qualified clinical laboratory personnel who are performing analysis of samples to test for SARS-CoV-2, the virus that causes COVID-19, in any certified public health laboratory or licensed clinical laboratory. Once the order is lifted, clinical genetic molecular biologists will no longer be able to perform molecular testing ordinarily limited to microbiologists, such as testing for the SARS-CoV-2 virus.

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

According to the Senate Appropriations Committee, CDPH anticipates costs of approximately $260,000 to develop regulations.

SUPPORT: (Verified 8/22/22)

Biocom California
California Life Sciences
Helix
Invitae Corporation
Primary.Health
Public Health Institute

OPPOSITION: (Verified 8/22/22)

California Association for Medical Laboratory Technology

ARGUMENTS IN SUPPORT: Biocom California and Helix write in support and note, "Executive Order N-25-20 suspended the Business and Professions Code provisions to permit all persons who meet the requirements for high complexity testing and who are performing analysis of samples to test for SARS-CoV-2, the virus that causes COVID-19, in any certified public health laboratory or licensed clinical laboratory. Now with the public health emergency coming to a close, we know that we must have a ready workforce to respond during surges in testing but we cannot support a workforce dedicated solely to COVID-19 testing alone….

"To be able to quickly respond to surges and maintain baseline COVID-19 testing for employers, schools, large events, and even community-based testing, codifying the executive order to allow Clinical Genetic Molecular Biological Scientists (CGMBS) to continue to have the authority to process and supervise molecular testing, is a responsible next step. CGMBS have the same academic credentials and are highly trained in all aspects of clinical molecular testing. This separates them from microbiologists and generalists in their ability to design, run and control molecular assays, which is necessary for core work in human genetics.

"Anticipating the need to perform molecular testing during surges and to continue baseline testing, without the need to maintain two separate workforces–one for COVID and one for core business lab operations is a critical part of the continued response to COVID-19. Updating the Business and Professions Code to include molecular testing under the licensure of Clinical Genetic Microbiologists is a simple, yet significant step to keep us prepared and reflect the way modern lab testing is conducted."

Supporters also note that with the rise of COVID-19 and the need for preparedness for future waves and pandemics, this bill will allow for trained scientists to step in to assist with necessary laboratory testing.

ARGUMENTS IN OPPOSITION: The California Association for Medical Laboratory Technology (CAMLT) wrote in opposition to a previous version of this bill, and stated, "The molecular assays for infectious diseases are likely to be the exact same test methods (in most cases PCR or qPCR) that are high complexity for human genetic diseases. It would seem reasonable that the Clinical Genetic Molecular Biologist (CGMB) scientist scope of practice be expanded to include the performance of all clinically relevant molecular biology tests such as infectious disease testing by molecular techniques if in fact their education, training and exam are equivalent with respect to Molecular Biology when compared to other licensed scientist categories currently permitted to perform such testing. However, current amendments to BPC 1207 do not expand the CGMB scientist scope of practice to include the performance of molecular tests for infectious agents of disease but in fact would expand their scope of practice to direct a microbiology laboratory. CGMB scientists are not qualified to direct clinical microbiology laboratories. Therefore, CAMLT opposes the proposed amendments to BPC 1207.

"CAMLT proposes that amendments to BPC 1210 be made instead that would allow CGMB scientists to perform molecular tests for infectious agents of disease but not allow for directorship of clinical microbiology laboratories.

"CAMLT opposes all amendments to BPC 1206.5. According to the Assembly bill analysis dated March 31, 2022, Public Health Institute (PHI) argues that parents of school children unable to self-swab are prohibited from collecting and performing tests on their own children. That is simply not true. Under BPC 1241(b)(7), any individual is authorized to perform clinical laboratory tests or examinations, approved by the federal Food and Drug Administration for sale to the public without a prescription in the form of an over-the-counter test kit, on their own bodies or on their minor children or legal wards."

ASSEMBLY FLOOR: 76-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva,

Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Hannah Frye / B., P. & E.D. /
8/24/22 19:30:14

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

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THIRD READING

Bill No: AB 2108
Author: Robert Rivas (D) and Cristina Garcia (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-1, 6/15/22
AYES: Allen, Gonzalez, Skinner, Stern, Wieckowski
NOES: Dahle
NO VOTE RECORDED: Bates

SENATE NATURAL RES. & WATER COMMITTEE: 7-2, 6/28/22
AYES: Stern, Allen, Eggman, Hertzberg, Hueso, Limón, Skinner
NOES: Jones, Grove

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 52-19, 5/25/22 - See last page for vote

SUBJECT: Water policy: environmental justice: disadvantaged and tribal communities

SOURCE: California Coastkeeper Alliance

DIGEST: This bill requires the California State Water Resources Control Board (State Water Board) to make programmatic findings on potential environmental justice, tribal impact, and racial equity considerations when issuing regional or statewide plans or policies, waste discharge requirements, or waivers of waste discharge requirements and to hire environmental justice and tribal coordinators to assist with this work.

Senate Floor Amendments of 8/25/22 remove the requirement for the State and Regional Water Boards to ensure at least one of their members have specialized

experience with environmental justice and tribal communities. They also made minor clarifying changes to the requirements for programmatic findings.

ANALYSIS:

Existing law:

1) Creates, within the California Environmental Protection Agency (CalEPA), the State Water Resources Control Board (State Water Board) consisting of five members appointed by the Governor and subject to confirmation by the State Senate. One of the members appointed must be an attorney qualified in the fields of water supply and water rights, one must be a registered civil engineer qualified in the fields of water supply and water rights, one must be a registered professional engineer who is experienced in sanitary engineering and is qualified in the field of water quality, and one only must be qualified in the field of water quality. One of the appointed members must also be qualified in the field of water supply and quality relating to irrigated agriculture. One member shall not be required to have specialized experience. (Water Code (WC) § 175)

2) Requires, pursuant to the California Safe Drinking Water Act (SDWA), State Water Board to administer provisions relating to the regulation of drinking water to protect public health, including conducting research and demonstration programs relating to the provision of a dependable, safe supply of drinking water, enforcing the federal SDWA, adoption of enforcement regulations, and conducting studies and investigations to assess the quality of water in domestic water supplies. (Health and Safety Code (HSC) § 116275 et seq.)

3) Prohibits the discharge of pollutants to surface waters unless the discharger obtains a permit from State Water Board. (WC § 13000, et seq.)

4) Creates nine Regional Water Boards each of which consist of seven members appointed by the Governor, and subject to confirmation by the State Senate. Each member shall be appointed on the basis of their demonstrated interest or proven ability in the field of water quality, including water pollution control, water resource management, water use, or water protection. (WC § 13201)

5) Delegates to California's Regional Water Boards the ability to adopt water quality standards within their region of jurisdiction. (WC § 13240)

6) Requires a Regional Water Board to prescribe requirements for any proposed discharge, existing discharge, or material change in an existing discharge, except discharges into a community sewer system, with relation to the

conditions existing in the disposal area upon or receiving waters into which the discharge is made or proposed. (WC § 13269 et seq.)

7) Defines "environmental justice" as the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins, with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies. (Public Resources Code § 30107.3)

8) Defines "disadvantaged community" as the entire service area of a community water system, or a community therein, in which the median household income is less than 80 percent of the statewide annual median household income level. (HSC § 116275)

This bill:

1) Defines, for the purpose of this legislation:

   a) "Meaningful civic engagement" to include:

      i) Providing opportunities for people to participate in decision making processes about activities that may affect their environment or health and to contribute to the State Water Board's and Regional Water Boards' decision making;
      ii) Seeking out and facilitating the involvement of people potentially affected by the decisions and taking into account community concerns; and
      iii) Informing disadvantaged and tribal community members of opportunities to be appointed to advisory or decision making bodies.

   b) "Tribal community" as a community within a federally recognized California Native American tribe or nonfederally recognized Native American Tribe on the contact list maintained by the Native American Heritage Commission.

2) Requires that outreach to identify issues of environmental justice should begin as early as possible in State or Regional Water Board planning, policy, and permitting processes.

3) Requires the State Water Board and Regional Water Boards to engage in equitable and culturally relevant community outreach and engagement to promote meaningful civic engagement from potentially impacted communities

of proposed discharges of waste that may have disproportionate impacts on water quality in disadvantaged and tribal communities.

4) Requires the State Water Board and Regional Water Boards to hire environmental justice and tribal community coordinators, upon appropriation by the Legislature, responsible for:

   a) Adhering to environmental justice goals, policies, and objectives;
   b) Promoting meaningful civic engagement in the public decision-making process;
   c) Informing water quality control plans and state policies for water quality control and waste discharge requirements or waivers of waste discharge requirements that address water quality impacts that occur disproportionately in disadvantaged communities; and
   d) Soliciting community recommendations for future projects to be listed on the Regional Water Boards' supplemental environmental project lists.

5) Requires the State Water Board, contingent to a specific appropriation, to:

   a) Direct resources for training of state and Regional Water Board staff to advance adherence to environmental justice goals and policies adopted by the State Water Board and Regional Water Boards;
   b) Establish a community capacity-building stipend program to promote meaningful civic engagement by disadvantaged and tribal communities in the State Water Board and Regional Water Boards' decision-making process; and
   c) Develop program-specific tools to better identify, and State Water Board and Regional Water Boards' compliance assessment and enforcement actions in, disadvantaged communities.

6) Requires the State Water Board and Regional Water Boards to make a concise programmatic findings on potential environmental justice, tribal impact, and racial equity considerations when adopting or amending water quality control plans or state policies for water control. The finding shall:

   a) Be based on readily available information identified by staff or raised during the public review process;
   b) Include a concise summary of the anticipated water quality impact on these communities as well as any environmental justice concerns previously raised by to the applicable Water Board that are within the Board's authority;

c) Identify measures available and within the Water Boards' authority to address the impacts of the activity or facility in a disadvantaged or tribal community.

7) Requires a finding with the same components as the ones in 7) when issuing or reissuing regional or statewide waste discharge requirements or individual waivers if it may impact a disadvantaged or tribal community and includes a time schedule for achieving an applicable water quality objective or other permit exemption for achieving applicable water quality objectives.

Background

1) *Many disadvantaged communities have difficulty accessing the policy-making process, reducing its efficacy.* Meaningful public participation is essential to good governing because it can provide new and more comprehensive information and enhances the democratic legitimacy and accountability of the process. California has several good-governance policies in place to encourage meaningful civic engagement during the rulemaking and legislative process.

However, many of these mechanisms require expenditures of time or acquisition of expertise that can be difficult for disadvantaged communities to access. As described in the 2018 report "Public Engagement with Agency Rulemaking" by the Administrative Conference of the United States (ACUS), research has shown it is primarily regulated entities, industry groups, professional societies, and public interest organizations that have sufficient resources to make full use of these engagement opportunities. For example, a 2011 study of U.S. Environmental Protection Agency (EPA) records from 1994 to 2009 found that, on average, industry groups engaged in 170 times more informal communications with EPA than public interest players.

These barriers are particularly difficult for disadvantaged communities to overcome, both due to lack of resources and differences in the types of expertise that have historically been valued by decision makers. In order to address this problem, ACUS provides several recommendations including targeted outreach to communities to facilitate participation by both experts and members of the public who do not typically participate in rulemaking. The report also suggests "agencies should consider using personnel with public engagement training and experience to participate in both the development of their general public engagement policies as well as in planning for specific rules."

2) *State Water Board Racial Equity Resolution.* The State Water Board adopted its Racial Equity Resolution (#2021-0050) by a unanimous five to zero vote on November 16, 2021. The Racial Equity Resolution cites the California Environmental Protection Agency's 2021 Pollution and Prejudice StoryMap and CalEnviroScreen data that demonstrate that historically redlined neighborhoods are "generally associated with worse environmental conditions and greater population vulnerability to the effects of pollution today" and that Black, Indigenous, and people of color are overrepresented in the neighborhoods that are the most environmentally degraded.

   The Resolution acknowledged that historically redlined neighborhoods are generally associated with worse environmental conditions and greater population vulnerability to the effects of pollution today, and that Black, Indigenous, and people of color are overrepresented in the neighborhoods that are the most environmentally degraded. In the resolution, the State Water Board committed to making racial equity, diversity, inclusion and environmental justice central to its work, and reaffirmed its commitment to the protection of public health and beneficial uses of water bodies in all communities, and particularly in disadvantaged communities.

Comments

1) *Purpose of this bill.* According to the author, "Environmental justice requires that all communities are actually represented by their government, that decision makers genuinely engage with and consider community interests, and enforcement is equal for all. When communities are deprived of these opportunities, they are unable to advocate for themselves or guard against harmful environmental consequences. As a result, low-income communities of color that have historically been disregarded and bear disproportionately larger environmental burdens.

   "Through AB 2108, environmental justice will have a permanent home at the State and Regional Water Boards. This bill will reduce barriers to community engagement, and will mandate transparent environmental justice considerations at key steps in permitting processes. These changes will ensure that the interests of environmental justice and tribal communities are considered at the state and regional Water Boards. For too long, underserved Californians have disproportionately suffered from polluted waters. This bill will help put California on the path to achieve clean water for all."

2) *Will fee payers shoulder the costs if appropriations end?* The environmental justice and tribal community coordinator positions and other environmental

justice activities added by this bill is contingent upon appropriation. The State Water Board is largely a fee-supported agency. While it currently receives some general fund monies, history has shown that when general fund revenues are short, general fund monies in Natural Resources and Environmental Protection Agencies are among the first to be cut. This calls into question the permanence of such programs should they be initially funded.

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

According to the Senate Appropriations Committee:

- The Water Board estimates ongoing costs of $13.5 million annually (General Fund or special funds) for the preparation and review of the environmental justice, tribal impact, and racial equity findings to be required for waste discharge requirements and plans and policies involving water quality control; and, community outreach required under AB 2108.

- The Water Board estimates additional one-time costs of $15.6 million over five years (General Fund or special funds) to develop program-specific enforcement tools to prioritize actions in disadvantaged communities.

- Enactment of this bill would result in unknown ongoing cost pressure, likely in the hundreds of thousands to low millions of dollars (General Fund or special funds), for the Water Board to create environmental justice and tribal community coordinator positions and a community capacity-building stipend program.

SUPPORT: (Verified 8/25/22)

California Coastkeeper Alliance (source)
7th Generation Advisors
Aequor
Bay Area Youth Lobbying Initiative
Belong Wine Co.
Blue Lake Rancheria Tribe of California
California Climate & Agriculture Network
California Environmental Voters
California Federation of Teachers, AFL-CIO
California Trout
Center for Biological Diversity
Clean Water Action
Climate Action Campaign

Coachella Valley Waterkeeper
Coast Action Group
Coastal Environmental Rights Foundation
Community Water Center
Environmental Center of San Diego
Environmental Defense Fund
Environmental Health Coalition
Friends of The River
Greenbelt Alliance
Humboldt Baykeeper
Inland Empire Waterkeeper
Leadership Council for Justice and Accountability
Lideres Campesinas
Los Angeles Waterkeeper
Mara Hoffman
Mono Lake Committee
Monterey Coastkeeper
North Bay Jobs with Justice
Northcoast Environmental Center
Orange County Coastkeeper
Organización En California De Líderes Campesinas, Inc.
OurWaterLA Coalition
Physicians for Social Responsibility - Los Angeles
Planning and Conservation League
Preserve Rural Sonoma County
Restore the Delta
Russian Riverkeeper
San Diego Coastkeeper
Santa Barbara Channelkeeper
Save California Salmon
SEE-LA
Sierra Club California
Social Eco Foundation
Sonoma County Conservation Action
Sonoma Ecology Center
South Yuba River Citizens League
Surfrider Foundation
The Otter Project
Torres Martinez Desert Cahuilla Indians
Tule River Tribe

Tuolumne River Trust
Water Climate Trust
Waterkeeper Alliance
Western Center on Law & Poverty
Western Sonoma County Rural Alliance
Winnemem Wintu Tribe
Yuba River Waterkeeper

OPPOSITION: (Verified 8/25/22)

Agricultural Council of California
California Association of Winegrape Growers
California Building Industry Association
California Chamber of Commerce
California Citrus Mutual
California Cotton Ginners and Growers Association
California Fresh Fruit Association
California League of Food Producers
California Rice Commission
California Walnut Commission
Orange County Water District
Plant California Alliance
Western Agricultural Processors Association
Western Growers Association
Western Plant Health Association

ARGUMENTS IN SUPPORT: According to the California Coastkeeper Alliance, "AB 2108 will continue to improve environmental justice at California's water boards through three approaches: (1) requiring that one member of the State Water Board and each regional board has environmental justice or tribal expertise, (2) ensuring that waterboards proactively reduce barriers to meaningful community engagement by increasing outreach and reprioritizing enforcement in low-income areas, and (3) requiring transparency regarding environmental justice considerations at key steps in the planning and permitting processes.

"By requiring one member of the State Water Board and each regional board has environmental justice or tribal expertise, AB 2108 will ensure that environmental justice principals and tribal advocacy are permanently housed within the waterboard decision-making bodies. Similarly, building community capacity lowers barriers to civic engagement and increase representation at the water boards. And, by requiring early environmental justice considerations for project

planning and permitting, AB 2108 will carry environmental justice issues throughout water board decision-making processes."

ARGUMENTS IN OPPOSITION: According to the Agricultural Council of California, "As a preliminary matter, AB 2108 seeks to require the appointment of a disadvantaged or tribal community candidates with experience in advocating for the disadvantaged communities or tribal rights of communities before the State Water Resources Control Board (State Board) and the regional water quality control boards (Regional Boards) (collectively, Water Boards). The organizations below take no position on these proposed amendments. However, it is worth noting that such amendments are not necessary as the Governor already maintains discretion to ensure that such appointments are made to all Water Boards.

"The imposition of new requirements and positions on the Water Boards are ongoing expenses, thus require continuous appropriations. As drafted, AB 2108 includes a contingency upon appropriation, but fails to include a continuous appropriation. If these positions and programs fail to be continuously appropriated by the Legislature, water quality fees would be increased to cover these new positions and programs, which are for the public benefit and not directly associated with the Water Board's primary responsibilities in administering the water quality permitting programs."

ASSEMBLY FLOOR: 52-19, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Lackey, Mayes, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Cooper, Daly, Grayson, Kiley, Mathis, O'Donnell

Prepared by: Jacob O'Connor / E.Q. / (916) 651-4108
8/26/22 15:41:21

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

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THIRD READING

Bill No: AB 2117
Author: Gipson (D)
Amended: 8/25/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 9-0, 6/22/22
AYES: Pan, Melendez, Eggman, Gonzalez, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Grove, Hurtado

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 61-0, 5/5/22 (Consent) - See last page for vote

SUBJECT: Mobile stroke units

SOURCE: Los Angeles County Board of Supervisors

DIGEST: This bill defines "mobile stroke unit" as a multijurisdictional mobile facility that serves as an emergency response critical care ambulance under the direction and approval of a local emergency medical services agency, and as a diagnostic, evaluation, and treatment unit, providing radiographic imaging, laboratory testing, and medical treatment under the supervision of a physician in person or by telehealth, for patients with symptoms of a stroke, to the extent consistent with any federal definition of a mobile stroke unit, as specified in federal law.

Senate Floor Amendments of 8/25/22 move the definition of "mobile stroke units" from the licensing provisions of the California Department of Public Health to the Emergency Medical Services Act under the jurisdiction of the Emergency Medical Services Authority.

ANALYSIS:

Existing federal law:

1) Requires, for purposes of payment under the Medicare program, payment for telehealth services that are furnished via a telecommunications systems by a practitioner. For purposes of treatment of stroke via telehealth services, permits an "originating site," which is the site at which the eligible telehealth individual is located at the time the service is furnished, to include any mobile stroke unit. [42 USC §1395(m)(6)]

2) Defines "originating site," for purposes of Medicare payment of telehealth services, as including a "mobile stroke unit" only for purposes of diagnosis, evaluation, or treatment of symptoms of an acute stroke. [42 CFR §410.78(b)(3)(xi)]

Existing state law:

1) Establishes the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act (EMS Act) to provide for a statewide system for emergency medical services (EMS), and establishes the Emergency Medical Services Authority (EMSA), which is responsible for the coordination and integration of all state activities concerning EMS, including the establishment of minimum standards, policies, and procedures. [HSC §1797, et seq.]

2) Authorizes counties to develop an EMS program and designate a local EMS agency (LEMSA) responsible for planning and implementing an EMS system, which includes day-to-day EMS system operations. [HSC §1797.200, et seq.]

3) Requires every LEMSA to have a licensed physician as medical director, to assure medical accountability throughout the planning, implementation, and evaluation of the EMS system. Requires the medical direction and management of an EMS system to be under the medical control of the medical director. [HSC §1797.202, HSC §1798]

4) Requires every 911 system to include police, firefighting, and emergency medical and ambulance services. Requires every 911 system, in those areas in which a public safety agency provides ambulance emergency services, to

include such public safety agencies. Permits 911 systems to incorporate private ambulance services. [GOV §53110]

5) Establishes the Department of Managed Health Care to regulate health plans under the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act) and the California Department of Insurance to regulate health insurance. [HSC §1340, et seq. and INS §106, et seq.]

6) Requires health plans and health insurers to provide basic health care services, including: physician services; hospital inpatient and ambulatory care services; diagnostic laboratory and diagnostic and therapeutic radiologic services; home health services; preventive health services; emergency health care services; including ambulance and ambulance transport services and out of area coverage; and, hospice care. Defines basic health care services to include ambulance and ambulance transport services provided through the "911" emergency response system. HSC §1345, INS §10112.281]

This bill defines "mobile stroke unit" as a multijurisdictional mobile facility that serves as an emergency response critical care ambulance under the direction and approval of a local emergency medical services agency, and as a diagnostic, evaluation, and treatment unit, providing radiographic imaging, laboratory testing, and medical treatment under the supervision of a physician in person or by telehealth, for patients with symptoms of a stroke, to the extent consistent with any federal definition of a mobile stroke unit, as specified in federal law.

Comments

1) *Author's statement.* According to the author, when a stroke comes, every second counts. The obstruction of traffic, construction, or adverse weather conditions can make the difference between life and death. In areas with MSUs, 911 dispatchers operate in tandem with healthcare providers to route first responders to callers. If a caller indicates that they are exhibiting stroke-like symptoms, an MSU team is sent to triage patients before they arrive at a hospital. This is essential to minimizing health complications for patients, as the longer a clot obstructs oxygen, the less likely it is that they will make a full recovery. Those who are above the age of 50 are more prone to having a stroke. These being are family members and friends that are aging. Or sometimes bad health falls upon us before old age. We need to normalize these services with our current health care system. These are the services that will provide for underserved areas and more that need attention to medical services. Opening the door for more well-rounded care as a whole.

2) *Background on strokes.* According to the National Institutes of Health, a stroke happens when there is a loss of blood flow to part of the brain. Your brain cells cannot get the oxygen and nutrients they need from blood, and they start to die within a few minutes. This can cause lasting brain damage, long-term disability, or even death. There are two types of stroke: the most common type is an ischemic stroke (more than 80% of strokes), which is when a blood clot blocks a blood vessel in the brain. Less common is a hemorrhagic stroke, which is caused by a blood vessel that breaks and bleads into the brain. A related condition is a transient ischemic attack, also called a "mini-stroke," when the blood supply is blocked for a short time. The damage to the brain cells isn't permanent, but a person who experiences a transient ischemic attack is at much higher risk of having a stroke. The primary risk factor for a stroke is high blood pressure, with other risk factors including diabetes, heart disease, smoking, family history, age, and race and ethnicity.

   For the more common ischemic strokes, medication can be given to dissolve the blood clot, known as tissue plasminogen activator (tPA). However, tPA is underutilized because the window for administering intravenous tPA is three hours, and many patients do not arrive to the hospital in time for this treatment. If this medication is given to someone suffering a hemorrhagic stroke, administering this medication could be fatal. Because of this, the standard of care is to immediately transport a patient experiencing stroke symptoms to a hospital, so that a CT scan can diagnose the type of stroke. This is where mobile stroke units can speed up care: by diagnosing an ischemic stroke while on the way to a hospital, allowing health care professionals to administer tPA immediately.

3) *Background on mobile stroke units.* There are currently two mobile stroke units (MSUs) operating in California. The UCLA Health MSU, and the Mills-Peninsula MSU operated by Sutter Health in San Mateo County. According to UCLA, its MSU was brought into service in 2017, and was the first of its kind on the west coast. The MSU is a specially-equipped ambulance, built with a mobile CT scanner, point-of-care lab tests, telehealth connection with a hospital, and stroke medications, all designed to deliver proven stroke therapies to patients faster than ever before. When a patient is having a stroke, every minute counts, and the faster patients are treated with appropriate medications, the better their health outcomes will be. The MSU is designed to take all of the care traditionally given in the emergency department of a hospital, and deliver it directly to stroke patients where they are, all before transporting the patient to

an approved stroke center for further care. UCLA states that MSUs first began in Germany in 2011, where it was shown that MSUs could deliver the same kind of safe, effective treatment to stroke patients, but nearly 30 minutes faster than through the traditional method of an ambulance transporting a patient to a hospital for their initial care. The Mills-Peninsula MSU was brought into service in December of 2018.

4) *CHBRP analysis of previous bill.* As introduced, this bill required health insurance coverage of MSU services, which was later amended out while the bill was still in the Assembly. A prior bill, AB 1254 (Gipson of 2021), which also would have required health insurance coverage of MSUs, was introduced in 2021, and while it was never set for hearing, a review was conducted by the California Health Benefits Review Program (CHBRP). AB 1996 (Thomson, Chapter 795, Statutes of 2002), requests the University of California to assess legislation proposing a mandated benefit or service and prepare a written analysis with relevant data on the medical, economic, and public health impacts of proposed health plan and health insurance benefit mandate legislation. CHBRP was created in response to AB 1996. CHBRP stated the following in its analysis of AB 1254:

   a) *Policy context.* California's 33 LEMSAs exercise most direct authority over the day-to-day operation of the state's EMS. LEMSAs set the maximum cost of ambulance transportation. The two LEMSAs with current MSU operations (Los Angeles County and San Mateo County) include policies that specify how MSUs operate within the local EMS delivery system.

   b) *Impact on expenditures.* CHBRP estimates no measurable fiscal impact or expected utilization increase due to this bill in the short term. CHBRP notes that: (1) the availability of MSUs in California will likely remain low; and, (2) existing MSUs have been largely reliant on grants and philanthropy. Even with the passage of this bill, their ability to recover costs may be constrained by the fee schedules set at the local level for emergency ground medical transport (EGMT). In addition, the population affected (mostly under age 65 years) has a low stoke incidence rate; therefore, CHBRP expects very low utilization over the long term even if MSUs were to increase. CHBRP considered the current use of MSUs with the understanding that of the 20 presently in the United States, few if any, presently bill commercial insurers. Medicare provides limited coverage for MSUs beyond the normal reimbursement for EGMT (under the telehealth benefit) and 66% of stroke hospitalizations occur in people over the age of

65. Presently, there are about 20 MSUs operating in the United States. CHBRP is aware of two MSUs currently in operation in California. The costs following enactment of this bill are a function of the increased supply and increased use of MSUs for non-Medicare stroke patients. CHBRP believes the increased supply of MSUs will be constrained by their initial investment and operating costs in relation to the reimbursement rate. Estimates of initial costs for MSUs are approximately $1 million each. Annual operating costs for each MSU are approximately $500,000 to $1.2 million. Limited reimbursement rates (with the likely finite number of eligible stroke patients) appear unlikely to cover the expected annual financial costs. For example, if emergency transport rates, controlled by each county in California, were similar to those for usual emergency transport rates, an MSU would not cover its costs. With current Medicare reimbursement, there are only a couple of MSUs in California. It seems unlikely that new reimbursement will be high enough to make investing in new MSUs attractive for the additional 34% of stroke patients (the non-Medicare stroke population). There may be other reasons to invest in more MSU capacity (e.g., a healthcare system might use it for advertising or as a loss leader), but this suggests modest investments in the supply of MSUs, congruent with no estimated impact on utilization or overall costs.

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

According to the Senate Appropriations Committee:

- The CA Department of Public Health (CDPH) estimates a one-time cost of $444,000 ((Licensing and Certification Fund) over three years to develop regulations outlining the mobile stroke unit definition.

- The Emergency Medical Services Authority (EMSA) estimates one-time General Fund costs of at least $182,000 in the first year and $175,000 in the second year to develop necessary regulatory changes.

SUPPORT: (Verified 8/11/22)

Los Angeles County Board of Supervisors (source)
American Heart Association
California Hospital Association

OPPOSITION: (Verified 8/11/22)

None received

ARGUMENTS IN SUPPORT: The Los Angeles County Board of Supervisors, sponsor of this bill, writes that throughout the United States, it is estimated that someone experiences a stroke every 40 seconds and providing care within the first hour can save a person's life. Strokes are the fifth leading cause of death in the nation and can contribute to long-term disability and reduce an individual's quality of life. MSUs are specially equipped ambulances that provide the care traditionally given in hospital emergency departments, and have built-in mobile CT scanners, point-of-care lab tests, and provide stroke medications. The MSU Care Team consists of a physician, often a neurologist specializing in stroke care, a critical care nurse, and a paramedic. There are an estimated 20 MSUs in the United States, and only two in California. UCLA Health is the first medical system in the Western United States to operate an MSU. When an individual within the MSU's response area calls 911 about a stroke, or with stroke-like symptoms, the MSU is immediately dispatched. Once treatment has been administered, the patient is transported to the emergency department with an approved stroke center for further care. The Los Angeles County MSU operates with support from UCLA Medical Center, philanthropic grants, private donations, and funding from Los Angeles County. MSUs provide lifesaving, cost effective care but face financial challenges because health insurance plans provide limited or no reimbursement, though reimbursement would be provided if the patient were directly transported to a hospital ED. Further, the specialized treatment stroke victims receive in the field may even reduce their hospitalization stay as well as the need for additional care, such as in a skilled nursing facility, thereby resulting in reduced costs to health plans.

ASSEMBLY FLOOR: 61-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Ward, Akilah Weber, Wilson, Wood, Rendon

NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Friedman, Gallagher, Cristina Garcia, Gipson, Levine, McCarty, Medina, Villapudua, Waldron, Wicks

Prepared by: Vincent D. Marchand / HEALTH / (916) 651-4111
8/26/22 15:41:22

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

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THIRD READING

Bill No: AB 2134
Author: Akilah Weber (D) and Cristina Garcia (D), et al.
Amended: 8/24/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 8-1, 6/22/22
AYES: Pan, Eggman, Gonzalez, Leyva, Limón, Roth, Rubio, Wiener
NOES: Melendez
NO VOTE RECORDED: Grove, Hurtado

SENATE JUDICIARY COMMITTEE: 9-1, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, McGuire, Stern, Wieckowski, Wiener
NOES: Jones
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 53-19, 5/26/22 - See last page for vote

SUBJECT: Reproductive health care

SOURCE: Ricardo Lara, California Insurance Commissioner
ACCESS Reproductive Justice
Essential Access Health
NARAL Pro-Choice California
National Health Law Program
Planned Parenthood Affiliates of California

DIGEST: This bill establishes the California Reproductive Health Equity Fund, and specifies that its purpose is to provide grant funding to safety net providers of abortion and contraception services through the California Reproductive Health Equity Program (Program) and to ensure affordability of and access to abortion

and contraception to anyone who seeks care in California, regardless of their ability to pay. This bill requires health plans and health insurers that provide coverage to employees of a religious employer that does not include coverage and benefits for abortion and contraception to provide enrollees with information regarding that lack of coverage and that services are available through the Program.

Senate Floor Amendments of 8/24/22 clarify that reduced cost services are required to be provided under the Program, in addition to no-cost services.

ANALYSIS:

Existing law:

1) Establishes the Reproductive Privacy Act, which prohibits the state from denying or interfering with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the woman. [HSC §123460, et seq.]

2) Replaces the Office of Statewide Health Planning and Development with the Department of Health Care Access and Information (HCAI), and requires HCAI to conduct a number activities related to workforce development, health planning, and data collection and dissemination related to pharmaceutical prices and health care payments. [HSC §127000, et seq.]

3) Establishes the Department of Health Care Services (DHCS) to administer the Medi-Cal program, which provides comprehensive medical coverage to low-income persons, and the Family PACT program, which provides comprehensive clinical family planning services and sexually transmitted disease (STD) screening and treatment to low income persons. [WIC §14000, et seq., WIC §14132, et seq.]

4) Establishes the State-Only Family Planning Program to provide family planning services for men and women, including emergency and complication services directly related to the contraceptive method and follow-up, and consultation and referral services. [WIC §24007]

5) Establishes the Department of Managed Health Care (DMHC) to regulate health plans under the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act) and the California Department of Insurance (CDI) to regulate health and other insurance. [HSC §1340, et seq. and INS §106, et seq.]

6) Requires health plans and health insurers, except for a specialized health plan contract or a specialized health insurance policy, to provide coverage for all of the following services and contraceptive methods for women: (a) all Food and Drug Administration (FDA) approved contraceptive drugs, devices, and other products for women, including all FDA-approved contraceptive drugs, devices, and products available over the counter, as prescribed by the enrollee's or insured's provider; (b) voluntary sterilization procedures; (c) patient education and counseling on contraception; and, (d) follow-up services related to the drugs, devices, products, and procedures, including, but not limited to, management of side effects, counseling for continued adherence, and device insertion and removal. [HSC §1367.25 and INS §10123.196]

7) Prohibits a health plan or disability insurer from imposing a deductible, coinsurance, copayment, or any other cost-sharing requirement on the coverage provided pursuant to 6) above, except in the case of a grandfathered health plan. Prohibits cost sharing from being imposed on Medi-Cal beneficiaries for family planning services. [HSC §1367.25, INS §10123.196, WIC 14134(a)(5)]

8) Permits a religious employer to request a health plan contract or disability insurance policy without coverage for FDA-approved contraceptive methods that are contrary to the religious employer's religious tenets, and requires a health plan contract or disability insurance policy to be provided without coverage for contraceptive methods, if requested. HSC §1367.25 and §10123.196]

9) Requires health plans and health insurers that cover hospital, medical, and surgical benefits to include a statement in a prominent location on any provider directory and in a conspicuous place in other forms as follows:

> Some hospitals and other providers do not provide one or more of the following services that may be covered under your plan contract and that you or your family member might need: family planning; contraceptive services, including emergency contraception; sterilization, including tubal ligation at the time of labor and delivery; infertility treatments; or abortion. You should obtain more information before you enroll. Call your prospective doctor, medical group, independent practice association, or clinic, or call the health plan at (insert the health plan's membership services number or other appropriate number that individuals can call for assistance) to ensure that you can obtain the health care services that you need. [HSC §1363.02 and INS §10604.1]

This bill:

California Reproductive Health Equity Fund and Program

1) Establishes the California Reproductive Health Equity Fund (Fund), and specifies that the purpose of the fund is to provide grant funding to safety net providers of abortion and contraception services through the Program and to otherwise ensure affordability of and access to abortion and contraception to anyone who seeks care in California, regardless of their ability to pay for care. Requires the Fund to also be used to pay for the cost of administering the Program and for any other purpose authorized under this bill. Requires the level of expenditure by HCAI for administrative support of the Program to be subject to review and approval annually through the annual budget process. Permits HCAI to receive private donations to be deposited into the Fund. Continuously appropriates the money in the Fund to HCAI for the purposes of this bill and requires HCAI to manage the Fund prudently in accordance with the law.

2) Specifies that the purpose of the Program is to ensure abortion and contraception are affordable for and accessible to all patients, regardless of their ability to pay, and to provide financial support for safety net providers of these services to offset the costs of providing uncompensated care to patients with low incomes who would otherwise lack access to care.

3) Permits Medi-Cal providers to apply for a grant, and a continuation award after the initial grant, if they agree to provide abortion and contraception services in accordance with the following:

    a) The abortion and contraception services provided are within the provider's scope of practice and licensure;

    b) The provider agrees to be identified, in a manner determined by HCAI, as a participating provider in the Program. Prohibits an institutional provider from being required to identify any individual who is an abortion provider as a condition of a grant;

    c) Requires the services, to the extent they are covered by Medi-Cal, to be provided at no cost, or a reduced cost, to an individual with a household income at or below 400% of the federal poverty level (FPL) who meets both of the following criteria: (i) is uninsured or has health care coverage that does not include both abortion and contraception; and, (ii) is not

otherwise eligible to receive both abortion and contraception at no cost through the Medi-Cal and Family PACT programs.

4) Requires an individual's self-declaration of income and source of health care coverage made to the provider at the time of service to be all that is required to determine whether the individual may be able to access no-cost or reduced-cost services pursuant to this bill.

5) Provides that this bill does not require a provider to accept additional patients if, in the reasonable professional judgment of the provider, accepting additional patients would endanger access to, or continuity of, care for existing patients.

6) Requires HCAI to work with DHCS to notify Medi-Cal enrolled providers of the availability of this funding, including any pertinent deadlines and other requirements.

7) Requires HCAI to develop an application form and begin accepting applications for grants by January 1, 2023. Requires an application for a grant, and any continuation award, to be made on the form developed by HCAI. Requires an application to include:

   a) A justification of the amount of grant funds requested, including both of the following:

      i) The cost of uncompensated abortion and contraceptive services the applicant provided to patients with household incomes at or below 400% FPL in the previous 12 months; and,

      ii) The anticipated cost of uncompensated abortion and contraception services to be provided to patients with household incomes at or below 400% FPL in the upcoming 12 months; and,

   b) Other pertinent information that HCAI requires.

8) Requires the cost of uncompensated abortion and contraception services to:

   a) Be calculated based on the amount the provider would expect to receive for providing these services to a patient enrolled in the Medi-Cal program; and,

   b) Include those services provided through prescription, including laboratory and pharmaceutical, as well as services that are the result of complications related to services, to the extent they would be covered by Medi-Cal.

9) Prohibits HCAI from requiring the submission of personal information about individuals receiving uncompensated abortion and contraception services as part of an application. Requires information to only include information in summary, statistical, or other forms that do not identify particular individuals. Exempts applications for grants and continuation awards from disclosure under the California Public Records Act.

10) Permits HCAI, within the limits of funds available, to award grants that best promote the purposes of the Program, taking into account:

    a) The extent to which abortion and contraception services are needed locally;

    b) The ability of the applicant to advance health equity; and,

    c) The relative need of the applicant.

11) Requires HCAI to determine the amount of an award on the basis of the amount of funds requested. Requires an initial grant to be for a 12-month period, unless otherwise specified by HCAI. Requires the determination of a grant award to be made within 60 days of receipt of a completed application.

12) Requires decisions regarding continuation awards and the funding level of those awards to be made after consideration of factors that include the recipient's anticipated level of need and the availability of funds. Requires a continuation award to be for a 12-month period, unless otherwise specified by HCAI.

13) Requires awarded funds to be expended solely for the purpose for which they were awarded, in accordance with the approved application and budget, implementation guidance issued by HCAI, and the terms and conditions of the grant or continuation award.

14) Requires HCAI to consult with interested parties, including the DHCS, DMHC, CDI, abortion and contraception providers, consumer advocates, and other stakeholders it deems appropriate.

15) Requires HCAI to conduct an evaluation of the Program and report its findings to the Legislature by July 1, 2024, and on an annual basis no later than each July 1 thereafter, as specified. Permits HCAI to use funds in the Fund for the evaluation of the program.

Health care coverage provisions

16) Requires health plans and health insurers that provide coverage to the employees of a religious employer that does not include coverage and benefits for both abortion and contraception to provide, in writing upon initial enrollment and annually thereafter upon renewal, each enrollee with information regarding:

    a) Abortion and contraception benefits or services that are not included in the enrollee's or health plan contract; and,

    b) Abortion and contraception benefits or services that may be available at no cost through the Program, which is established under this bill at HCAI.

17) Requires the Department of Industrial Relations (DIR), beginning January 1, 2023, to post on its website information regarding abortion and contraception benefits that may be available at no cost through Program to employees whose employer-sponsored health coverage does not include coverage for both abortion and contraception.

Miscellaneous

18) Includes a severability clause, so that if any provision of this bill is held invalid, that invalidity does not affect other provisions that can be given effect without the invalid provision.

19) Makes a finding and declaration that this bill imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies and a finding that to protect confidential and personal medical information, it is necessary that grant applications be protected from public disclosure.

Comments

Author's statement. According to the author, this bill continues California's commitment to being a Reproductive Freedom State and a national leader in safeguarding and advancing reproductive freedom. This bill ensures that health care providers who provide abortions are fully compensated for their services. This bill is essential for ensuring that all people in California can access abortion care regardless of their insurance type and providers are supported. With the U.S. Supreme Court set to decide a case that could overturn *Roe v. Wade* later this year, it is critical that California has policy in place to meet this moment.

(NOTE: Please see policy committee analyses for more detailed background information.)

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

According to the Senate Appropriations Committee:

- Unknown General Fund costs, potentially tens of millions of dollars, to provide the grant funding. By creating a continuously appropriated fund, the bill would make an appropriation.

- HCAI estimates state operations costs of approximately $2 million General Fund over three years for a vendor to administer the program and $37,530 - $75,060 General Fund for staff to develop the contract and oversee the vendor.

- Minor and absorbable costs to DIR, DMHC and CDI.

SUPPORT: (Verified 8/11/22)

Ricardo Lara, California Insurance Commissioner (co-source)
ACCESS Reproductive Justice (co-source)
Essential Access Health (co-source)
NARAL Pro-Choice California (co-source)
National Health Law Program (co-source)
Planned Parenthood Affiliates of California (co-source)
Betty T. Yee, California State Controller
Rob Bonta, California Attorney General
ACLU California Action
American College of Obstetricians and Gynecologists District IX
American Nurses Association
California Academy of Family Physicians
California Latinas for Reproductive Justice
California Nurse-Midwives Association
California Nurses Association
California Women's Law Center
Citizens for Choice
City Of Los Angeles
Democratic Party of Contra Costa County
Having Our Say Coalition
Indivisible San Jose
LA Care Health Plan
National Association of Social Workers, California Chapter

Stronger Women United
Together We Will/Indivisible-Los Gatos
Training in Early Abortion for Comprehensive Healthcare

OPPOSITION: (Verified 8/11/22)

California Catholic Conference
Concerned Women for America Legislative Action Committee
Department of Finance
Fieldstead and Company
Right to Life League

ARGUMENTS IN SUPPORT: Planned Parenthood Affiliates of California (PPAC), co-sponsor of this bill, writes that despite insurance coverage for abortion services, a gap still exists for employees of religious employers and employees of self-funded plans which may exclude these benefits. And many Californians without employer-based coverage earn too much to qualify for Medi-Cal, but not enough to make coverage under Covered California an option. While those with no insurance must still pay out-of-pocket. In 2022, there have been over 500 abortion restrictions introduced across 41 states. Also this year, the U.S. Supreme Court will decide on a case that directly challenges the constitutional right to abortion established under *Roe v. Wade*. If the Court upholds Mississippi's abortion ban, thereby overturning *Roe*, people in over half of the states across the country, over 36 million women and other people who may become pregnant, will lose access to abortion. In fact, millions of Texans are already experiencing this lack of access. Since Texas' SB 8 went into effect last fall, Texans needing abortion have been denied. The ban in Texas disproportionately impacts Black, Brown, Indigenous and other people of color, people with low-income, people living in rural areas, and other historically marginalized communities who are most likely to be forced to continue pregnancies against their will, rather than be able to travel to already overburdened clinics in neighboring states, like Oklahoma, making matters worse. Oklahoma politicians have since introduced several extreme abortion bans. According to a report released by the Guttmacher Institute, if *Roe v. Wade* is overturned, as many legal and health experts now anticipate, 26 states are certain or likely to ban abortion almost immediately, increasing the number of out-of-state patients who would find their nearest abortion provider in California from 46,000 to 1.4 million, an increase of nearly 3,000%. As California prepares to see patients seeking abortion services and reproductive health care in our state, we must invest in the providers and organizations that are assisting in access and already providing that care. For those that cannot afford the out-of-pocket cost for services, providers often offer sliding-fee scales and charity care as an option. In 2019, Planned

Parenthood health centers in California provided about $9 million of uncompensated care to patients. To support California's health care providers, this bill seeks to create the Program to provide financial support to safety net providers who offer reproductive and sexual health care services, specifically abortion and contraception, to people in California who are unable to pay out-of-pocket for services. PPAC is proud to offer reproductive health care to anyone who walks through the health centers doors. For providers to remain financially stable and available to Californians, particularly during a time when patients are forced to come to California, displaced by cruel restrictions in other states, the cost of uncompensated care must be addressed. With the support of state funded grants, California can continue to lead as a reproductive freedom state.

Ricardo Lara, California Insurance Commissioner, co-sponsor of this bill, writes that the issue of access to reproductive health and abortion services becomes even more urgent when discussing women of color. Women of color's access to abortion care is even more critical when considering the pervasive health disparities they face in comparison to white women. In nearly all aspects of reproductive health, women of color face poor health outcomes than white women, from maternal mortality rates to endometrial and cervical cancer. Additionally, women of color, particularly Black women, frequently have negative experiences in the health care system due to institutionalized racism and a history of control, coercion, and lack of bodily autonomy when it comes to their reproductive health and decision making. Health care providers and the system more broadly, must embrace a larger equity approach to reduce these disparities.

ARGUMENTS IN OPPOSITION: The California Catholic Conference (CCC) is opposed to abortion since it always takes the life of an innocent human being, with more than 132,000 lives lost each year in our state. Women deserve to be empowered with non-violent solutions to the challenges they face during pregnancy. However, this bill should also be rejected because it forces employers who object to abortion in conscience to pay yet another tax for abortion, beyond those paid into Medi-Cal and Family PACT. A majority of Americans oppose using tax dollars to pay for abortions. Furthermore, this bill compels speech from religious and non-religious employers by forcing them to advertise the options for abortion and contraception to their employees annually. The many employers who conscientiously object to abortion will have to advertise this very same moral violation against their most deeply held convictions. The right of conscience should not be abridged. There is no lack of access to abortion in California. The state already funds abortions through tax dollars, with over 400 facilities performing abortions, and abortions offered by nurse practitioners, nurse midwives, physician assistants, via telehealth, on college campuses, and through a

dozen sources by mail. CCC contends what California needs is equity for the choices of pregnant and parenting women as they pursue motherhood. California women face critical issues, including maternal mortality, infant mortality, lack of prenatal and postpartum care, housing, nutrition, transportation, childcare, immigration services, intimate partner violence, and unemployment. According to CCC, this bill further prejudices the choice of abortion over the choice of birth and parenting, serving to coerce marginalized, economically challenged women to have abortions they do not want.

ASSEMBLY FLOOR: 53-19, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Cooley, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Choi, Grayson, Mayes, O'Donnell, Quirk-Silva

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8/26/22 15:41:22

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

SENATE RULES COMMITTEE AB 2143
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THIRD READING

Bill No: AB 2143
Author: Carrillo (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 11-3, 6/15/22
AYES: Hueso, Becker, Bradford, Dodd, Eggman, Gonzalez, Hertzberg, McGuire, Min, Portantino, Stern
NOES: Dahle, Borgeas, Grove

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 3-2, 6/29/22
AYES: Cortese, Durazo, Newman
NOES: Ochoa Bogh, Wiener

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 55-18, 5/25/22 - See last page for vote

SUBJECT: Net energy metering: construction of renewable electrical generation facilities: prevailing wage

SOURCE: California State Association of Electrical Workers
Coalition of California Utility Employees

DIGEST: This bill applies, after December 31, 2023, public works project requirements, specifically prevailing wages, for renewable energy installations that receive service through an electric utility's net energy metering (NEM) tariff, except as specified.

Senate Floor Amendments of 8/25/22 exempt existing public works project from the provisions of this bill, further exempt modular homes and multi-unit housing, and specify that a violation of the provisions of this bill must be "willful" in order to disqualify an eligible customer-generator from receiving service under the NEM tariff.

ANALYSIS:

Existing law:

1) Establishes and vests the California Public Utilities Commission (CPUC) with regulatory authority over public utilities, including electrical corporations. (Article XII of the California Constitution)

2) Requires every electric utility, defined to include; electrical corporations, local publicly owned electric utilities, and electrical cooperatives, to develop a standard contract or tariff for NEM, for generation by a renewable electrical generation facility, and to make this contract or tariff available to eligible customer-generators, until the total rated generating capacity used by eligible customer generators exceeds five percent of the electric utility's aggregate customer peak demand. (Public Utilities Code §2827)

3) Requires the CPUC, for a large electrical corporation, as defined, to have developed a second standard contract or tariff to provide NEM to additional eligible customer-generators in the electrical corporation's service territory and imposes no limitation on the number of new eligible customer-generators. (Public Utilities Code §2827.1)

4) Imposes various requirements on public works projects, including a requirement that, at minimum, all workers employed on a public works project be paid the general prevailing rate of per diem wages for work of a similar character in the locality in which a public work is performed. Defines "public work" to include, among other things, construction, alteration, demolition, or installation or repair work done under contract and paid for, in whole or in part, out of public funds. (Labor Code §1720)

5) 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)

6) 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 type of worker needed to execute the public works project. (Labor Code §1773)

7) 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)

8) Requires the CPUC to submit various reports to the Legislature. (Public Utilities Code §910, *et seq.*)

This bill:

1) Applies public works project requirements to the construction of any renewable electrical generation facility, and any associated battery storage, after December 31, 2023, that receives service pursuant to the 2nd standard contract or tariff for NEM, except a residential facility that will have a maximum generating capacity of 15 kilowatts (kW) or less of electricity or that will be installed on a single family home (2) a project that is already a public work under existing law, or (3) a facility that serves only a modular home, a modular home community, or multiunit housing that has 2 or fewer stories.

2) Requires a contractor who enters into a contract to perform work on the renewable electrical generation facility or associated battery storage to pay each construction worker employed in the execution of the work, at minimum, the general prevailing rate of per diem wages and each apprentice, at minimum, the applicable apprentice prevailing rate.

3) Authorizes enforcement mechanisms of the wage requirements.

4) Provides that, if a willful violation of this bill's requirements has been enforced against a contractor for the construction of a renewable electrical generation facility that was constructed in violation of the bill's requirements using those mechanisms, the facility is not eligible for to receive service pursuant to those standard contracts and tariffs.

5) Requires the CPUC to annually publish on its internet website and submit to the Legislature a report on the progress made to grow the use of distributed energy resources among residential customers in disadvantaged communities and in low-income households, and an aggregated list of all renewable electrical generation facilities that began to receive service pursuant to a NEM contract or tariff during the preceding calendar year.

Background

Net Energy Metering. Electric utility customers have long helped fund the cost of customer-sited electricity generation from renewable resources, which is largely

electricity generated by rooftop solar. The vast majority of rooftop solar customers are enrolled in NEM (NEM 1.0) or NEM Successor (NEM 2.0) tariffs, established under Public Utilities Code §§2827 and 2827.1, respectively. The NEM program supports onsite renewable energy (largely rooftop solar) installations designed to offset a portion, or all, of the customer's electrical energy usage. Under NEM, customers receive a bill credit (in dollars) based on the retail rate of electricity (including generation, transmission, and distribution rate components) for any excess generation (in kWh) that is exported back to the electric grid. In time periods when a customer's bill is negative (because the amount of energy the solar system exported to the electric grid exceeded the amount of energy consumed by the customer), the utility bill credits are carried forward up to one year, at which point customers may elect to receive net surplus compensation for any electricity produced in excess of on-site energy usage. Customers taking service under NEM 2.0 pay the cost to connect to the grid, take service on a "time-of-use" rate plan, and pay "non-bypassable" charges that are not offset with surplus energy credits.

New NEM tariff CPUC decision still pending. On August 2020, the CPUC initiated Rulemaking (R. 20-08-020) to develop a successor to the NEM 2.0 tariff, as part of the requirement in statute and a commitment in a previous decision to review the current tariff to address the shift in costs to nonparticipating customers. The CPUC released a proposed decision in December 2021. However, a revised proposed decision is pending as the CPUC is currently soliciting additional stakeholder comments.

Public works projects. Public works projects are, generally, those funded in part by public funds. All workers employed on public works projects must be paid the prevailing wage determined by the Director of the DIR, according to the type of work and location of the project. In California, the prevailing wage rate is an hourly rate paid on public works projects that is often set in the terms of a collective bargaining agreement. Prevailing wage creates a level playing field by requiring an across-the-board rate for all bidders on publically subsidized projects.

Rooftop solar wages. Residential rooftop solar installation does not currently require payment of the prevailing wage, as such, rooftop solar installers are generally making below the wage rate paid to other building and construction trade workers. According to the Bureau of Labor Statistics, Occupational Employment Statistics, the median hourly wage in 2015 for a solar installer was a little under $21 an hour. According to a UC Berkeley Labor Center report on solar jobs: "residential rooftop solar companies, whether they directly employ workers or subcontract out the work to other installation crews, essentially compete in the residential construction market where barriers to entry are low, unionized

contractors are absent, and contractors who comply with employment laws and building codes must compete with many who skirt these regulations. All of this puts downward pressure on wages."

Comments

AB 2143. This bill expands the application of "public works" definition to include NEM solar and associated battery storage installations greater than 15 kW that are not located on a single family home, modular home, two-story multi-unit housing, or is an existing public work project. This bill requires specified reporting by contractors to the CPUC and specified payroll reporting by the CPUC and enforcement mechanisms by the Labor Commissioner, workers, and others. This bill also requires the CPUC to report on the progress made to grow the use of distributed energy resources among residential customers in disadvantaged communities and low-income households.

Defining public works projects. As noted above, the mostly solar rooftop renewable energy projects subject to this bill compensate customers through a utility NEM tariff paid for by other electric utility customers. Although these projects are not necessarily funded by public dollars, the proponents of this bill argue that applying public works project definition and prevailing wage requirements is warranted as NEM projects over 15 kW tend to be the larger, commercial projects and rooftop solar installers should be compensated prevailing wages. Those in opposition to this bill argue that such an expansion of the application of public works definition will have a myriad of consequences, including misapplying public works to non-public funded projects, and slowing down California's clean energy goals by increasing costs of NEM projects. In data provided by a solar installation company for projects located in inland southern California, they allege that the potential costs increases of applying public works prevailing wages could result in quadrupling the contractors' costs associated with some of these projects. As currently drafted, this bill would expand the application of public works prevailing wage requirements mostly to commercial projects not currently subject to prevailing wage requirements, given that projects that receive public funding (such as schools, government buildings, etc.) would likely already defined as public works projects which require prevailing wages. In the case of non-public buildings, such as commercial buildings or multi-family residential buildings (greater than two-stories) it is not clear whether application of public works is warranted for projects that receive no explicit public funding, though they do receive a utility tariff compensation that is collected from other customers in the corresponding utility service territory.

NEM renewable energy systems over 15 kW. Based on data collected as part of the California Solar Initiative, the interconnection of all customer-sited renewable generating facilities has been tracked and updated on a regular basis. Based on this data, about three percent of the NEM systems interconnected to the three large electric investor-owned utilities are greater than 15 kW in size, with 3.6 percent in Pacific Gas & Electric (PG&E) service territory, and 2.5 percent in each of the territories of Southern California Edison (SCE), and San Diego Gas & Electric (SDG&E). In aggregate, across all three of these utilities, there are nearly 40,000 NEM connected systems greater than 15 kW of the nearly 1.3 million NEM connected systems.

Inland areas may require larger energy systems. California Solar and Storage Association notes that inland areas in California experience hotter temperatures and, therefore, average larger solar energy systems. They cite a statewide average of 7 kW for solar rooftop energy systems, but 8 kW for areas such as Fresno. They express concerns that the increased costs for prevailing wages will make solar rooftop energy less accessible to inland communities.

Buyer beware. Among its enforcement provisions, this bill prohibits a customer with a renewable electrical generation facility for which a willful violation of this bill has been enforced from receiving service as part of the NEM tariff. While customers select what contractors they use for solar installations, they may not have full knowledge regarding any subcontract work or other aspects of a contractor's installation that could violate the requirements of this bill. However, these customers could be left in a position to pay for the installation of a renewable energy system that will not deliver as intended. Recent amendments attempt to mitigate these incidents by narrowing the application of this enforcement to only willful violations.

Related/Prior Legislation

AB 2316 (Ward, 2022) requires the CPUC to establish a new community renewable energy program that meets specified criteria, including prevailing wage requirements. The bill is pending on the Senate Floor.

AB 2667 (Friedman, 2022) establishes the Integrated Distributed Energy Resources Fund as a special fund in the State Treasury to fund, upon appropriation, incentives to support statewide customer adoption of clean distributed energy resources, with specified requirements including prevailing wage requirements. The bill is pending on the Senate Floor.

AB 1385 (Cortese, 2022) would have required the CPUC to establish a new multifamily housing local solar program, with specified requirements, including applying public works project requirements. The bill was held in the Assembly Committee on Appropriations.

AB 841 (Ting, Chapter 372, Statutes of 2020) required that all electric vehicle charging infrastructure and equipment located on the customer side of the electrical meter that is funded or authorized, in whole or in part, by state entities shall be installed by a contractor with the appropriate license and at least one electrician on each crew.

SB 350 (De León, Chapter 547, Statutes of 2015) specified that construction, alteration, demolition, installation, or repair work on the electric transmission system located in California constitutes a public works project, subjecting these projects to prevailing wage.

AB 327 (Perea, Chapter 611, Statutes of 2013) instituted several rate reforms and required the CPUC to adopt a successor NEM tariff no later than December 31, 2015.

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

According to the Senate Appropriations Committee, CPUC estimates one-time costs of about $1 million (ratepayer funds) for workshop planning and facilitation, contract solicitation and management, and construction of an online intake portal and database, among other things. In addition, CPUC estimates ongoing costs of about $1 million annually (ratepayer funds) to perform research for the Disadvantaged Communities/Low-Income DER report, depose of implementation advice letters, establish data intake processes for contractor payroll data, and provide quality control and compliance tracking, and perform other activities. Of that amount, $750,000 for management and maintenance of the payroll database would no longer be needed after five years.

SUPPORT: (Verified 8/25/22)

California State Association of Electrical Workers (co-source)
Coalition of California Utility Employees (co-source)
BlueGreen Alliance
California Labor Federation

OPPOSITION: (Verified 8/25/22)

California Solar + Storage Association

Desert Valleys Builders Association
Silicon Valley Leadership Group

ARGUMENTS IN SUPPORT: The California State Association of Electrical Workers and the Coalition of California Utility Employees argue that the requirements for prevailing wages for NEM connected renewable energy systems will "stop large corporations and wealthy homeowners from taking advantage of rooftop solar installers, while ensuring the highest level of competence and safety over the lifetime of the project." They also argue that the reporting requirements of this bill will help address "the exclusion of lower income communities from participating in rooftop solar."

ARGUMENTS IN OPPOSITION: In opposition to this bill, the California Solar + Storage Association argues that this bill will: (1) slow down California's clean energy goals by increasing costs; (2) increase the use of fossil fuels (especially fossil fueled generators); (3) establishes a bad precedent by defining independent, behind-the-meter solar projects contracted by and for individual consumers "public works projects;" (4) kill small businesses which represent over 80 percent of California's solar contractors; (5) hurt the state's affordable housing and commercial solar market; (6) create unnecessary red tape as "most solar installers do not have teams of lawyers to sort through California's prevailing wage rules."

ASSEMBLY FLOOR: 55-18, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Choi, Cunningham, Megan Dahle, Davies, Fong, Gallagher, Kiley, Lackey, Levine, Mathis, Mayes, Nguyen, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Flora, Irwin, O'Donnell, Patterson

Prepared by: Nidia Bautista / E., U. & C. / (916) 651-4107
8/26/22 15:41:23

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

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THIRD READING

Bill No: AB 2146
Author: Bauer-Kahan (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 4-1, 6/8/22
AYES: Allen, McGuire, Skinner, Wieckowski
NOES: Dahle
NO VOTE RECORDED: Bates, Stern

SENATE APPROPRIATIONS COMMITTEE: 4-2, 8/11/22
AYES: Portantino, Bradford, Laird, Wieckowski
NOES: Bates, Jones
NO VOTE RECORDED: McGuire

ASSEMBLY FLOOR: 48-17, 5/23/22 - See last page for vote

SUBJECT: Neonicotinoid pesticides: prohibited nonagricultural use

SOURCE: Author

DIGEST: This bill prohibits, beginning January 1, 2024, a person from selling, possessing, or using a neonicotinoid pesticide. Exemptions are provided for use on an agricultural commodity and other specified uses.

Senate Floor Amendments of 8/25/22 exempt fruit and nut tree applications of a neonicotinoid pesticide by certified qualified applicators from the provisions of the bill and make other nonsubstantive changes based on the Department of Food and Agriculture (CDFA) technical assistance.

ANALYSIS:

Existing law:

1) Provides, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), for federal regulation of pesticide distribution, sale, and use. Requires

that all pesticides distributed or sold in the United States be registered (licensed) by the United States Environmental Protection Agency (US EPA). (7 United States Code (U.S.C.) §136 et seq)

2) Authorizes the state's pesticide regulatory program and mandates California's Department of Pesticide Regulation (DPR) to, among other things, provide for the proper, safe, and efficient use of pesticides. (Food and Agriculture Code (FAC) § 11401 et seq.)

3) Regulates the use of pesticides and authorizes the director of DPR (director) to adopt regulations to govern the registration, sale, transportation, or use of pesticides, as prescribed. (FAC §11501, et. seq)

4) Authorizes, the director after a hearing, to cancel the registration of, or refuse to register, any pesticide that meets a certain criteria. (FAC § 12825)

5) Requires, if during or after the registration of a pesticide the registrant has factual or scientific evidence of any adverse effect or risk of the pesticide has not been previously submitted to DPR, the registrant to submit the evidence to DPR. Authorizes the director of DPR to adopt regulations to carry out the reevaluation process. (FAC § 12825.5)

6) Requires DPR to issue a determination with respect to its reevaluation of neonicotinoids by July 1, 2018, and to adopt control measures necessary to protect pollinator health within two years after making the determination. (FAC § 12838)

This bill:

1) Prohibits, beginning January 1, 2024, a person from selling, possessing, or using a neonicotinoid pesticide, as defined, for application to outdoor ornamental plants, trees, or turf, except for use on, or for the protection of, an agricultural commodity, as defined.

2) Authorizes the director, in consultation with the CDFA, to authorize, by written order, the sale, possession, or use of a neonicotinoid pesticide that is prohibited by the provisions of this bill if he or she finds:

   a) A valid environmental emergency exists;

   b) The pesticide would be effective in addressing the environmental emergency; and,

c) There are no other, less harmful pesticides or pest management practices that would be effective in addressing the environmental emergency.

3) Defines "environmental emergency" as an occurrence of a pest that presents a significant risk of harm or injury to the environment or human health, or significant harm, injury, or loss to agricultural crops, including, but not limited to, an exotic or foreign pest that may need preventative quarantine measures to avert or prevent that risk, as determined by the DPR, in consultation with the CDFA.

4) Authorizes a certified qualified applicator to possess or use a neonicotinoid pesticide and a licensed pest control dealer to sell a neonicotinoid pesticide as provided.

5) Provides that these provisions do not apply to certain actions and applications of these pesticides.

Background

1) *What are neonicotinoid pesticides, who uses them, and how long have they been around?* Neonicotinoids are synthetic compounds similar in structure to nicotine. They have a common mode of action that affects the central nervous system of insects (binding to nicotinic acetylcholine receptors), making them active against a broad spectrum of insects.

   Neonicotinoids are also systemic insecticides, which means they can be taken up through the roots of plants and translocate to their leaves, flowers, and pollen. Due to their systemic activity, neonicotinoids are ideal candidates for seed coatings. Seed coatings are used for a variety of crops including maize (corn), soybeans, sunflowers, oilseed rape (canola), and cotton. Neonicotinoids are applied in agricultural areas as foliar sprays, in-furrow treatments (e.g., soil drenches), and granules. In urban or forested areas, neonicotinoids are applied as tree soil drenches or injections. Plants grown in garden centers and nurseries are often treated with neonicotinoid foliar sprays, drenches, and/or granular applications.

   Neonicotinoids have a variety of other home uses including lawn and garden applications, topical flea medicines for pets such as dogs and cats, and in bait formulations for use against cockroaches and ants. Currently, neonicotinoids are the most widely used class of insecticides in the world, representing 25% of the global insecticide market.

2) *How neonicotinoids affect the environment.* As described in the Environmental Science and Technology article, neonicotinoids are not volatile, somewhat persistent in water and soils, and highly soluble in water, meaning they can easily be transported away from the area of initial application. Neonicotinoids have been frequently detected in waterways around the world, including surface water runoff (rivers, streams), groundwater, and wetlands. Imidacloprid is detected in 89–100% of water samples collected during monitoring studies of global surface waters. DPR's report, "Urban Monitoring in Southern California Watersheds Fiscal Year 2017-2018," shows neonicotinoid contamination in over 90% urban surface water samples taken in Los Angeles, Orange, and San Diego counties, which may indicate extensive outdoor, non-agricultural use. The source of neonicotinoids in water can vary from overspray to particulates (such as dust from treated seeds) to runoff from seed coatings or soil applications. Neonicotinoids have been detected in wildflowers adjacent to agricultural areas, indicating their potential to move away from the point of application and be taken up by other non-target plants.

3) *How neonicotinoids impact pollinators, such as bees.* The Food and Agriculture Organization (FAO) is a specialized agency of the United Nations that leads international efforts to defeat hunger. According to its May 2018 report "Why Bees Matter," close to 75% of the world's crops producing fruits and seeds for human consumption depend, at least in part, on pollinators for sustained production, yield and quality.

   The report found pollination is the highest agricultural contributor to yields worldwide, contributing far beyond any other agricultural management practice. Pollinators affect 35% percent of global agricultural land, supporting the production of 87 of the leading food crops worldwide. Plus, pollination-dependent crops are five times more valuable than those that do not need pollination. The price tag of global crops directly relying on pollinators is estimated to be as much as $577 billion a year and rising – the volume of agricultural production dependent on pollinators has increased by 300% percent in the last 50 years.

   Since neonicotinoids affect the central nervous system of insects, they do not discriminate between target (e.g., corn rootworm, flea beetle) and non-target insects (e.g., bees).

   The impact of neonicotinoid use on bees, and other pollinators (moths, flies, wasps, beetles, butterflies and others), has been of particular concern. The three most commonly detected neonicotinoids (clothianidin, imidacloprid, and

thiamethoxam) are classified as being highly toxic to bees. As neonicotinoids are systemic within the crop, pollinators can be exposed when they consume the nectar or pollen of a treated crop that flowers and through the dust from seed coatings. Additionally, neonicotinoids frequently contaminate the pollen and nectar of wildflowers growing in the vicinity of treated crops, increasing the likely duration and extent of pollinator exposure to neonicotinoids. In laboratory and semi-field studies, exposure to field realistic doses has been shown to impair learning and the accuracy of navigation, decrease foraging success, suppress immune response, reduce the viability of sperm stores in queens, reduce queen longevity, reduce growth of bumblebee colonies, and reduce the number of new queens they produce.

4) *How neonicotinoids impact other animals.* An important mechanism of neurotoxicity for neonicotinoids is the almost irreversible binding to nicotinic acetylcholine receptors in insects, making low-level continual exposures to neonicotinoids likely to lead to cumulative effects. Non-target organisms expected to be exposed to neonicotinoids at levels of concern include pollinators, aquatic insects, and birds.

5) *Can neonicotinoid exposure impact humans?* An article published in Environmental Health Perspectives in 2017, "Effects of Neonicotinoid Pesticide Exposure on Human Health: A Systematic Review," cites four general population studies that reported associations between chronic neonicotinoid exposure and adverse developmental or neurological outcomes, including neural tube defects and autism spectrum disorder. The findings of animal studies support the biological plausibility for such associations. The European Food Safety Authority concluded that acetamiprid and imidacloprid adversely affect the development of neurons and brain structures associated with functions such as learning and memory. The Environmental Health Perspectives article concludes, "Given the widespread use of neonicotinoid pesticides in agricultural and household products, and its increasing detection in United States food and water, more studies on the human health effects of neonicotinoid exposure are needed."

Comments

Purpose of Bill. According to the author, “Our pollinators are threatened. California beekeepers lost 41.9% of their colonies last year, one of the worst years on record. These pollinators are critical to California's agriculture, worth $50 billion annually. A huge body of research links adverse health impacts and the decline in pollinator populations to the use of pesticides, particularly

neonicotinoids. Though we have seen steps to regulate these pesticides in our commercial fields, there has been little movement on non-agricultural uses. The European Union, Maine, New Jersey, and many other states have already banned many of these pesticides for many uses. It's time to catch up to the rest of the world in protecting bee and human health. AB 2146 will curb harmful neonic contamination without limiting farmers, and will secure our food system for generations to come."

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

According to the Senate Appropriations Committee:

- The DPR estimates ongoing costs of about $159,000 annually (Department of Pesticide Regulation Fund [DPRF]) to determine if an environmental emergency exists by evaluating data and consulting with CDFA.

- The CDFA estimates ongoing costs of about $40,000 annually (CDFA Ag Fund) to perform the consultative role as outlined in this bill.

- Unknown, potentially significant revenue loss (DPRF) due to an overall reduction in the mill assessment, registration, and renewal fees collected on neonicotinoid pesticides.

- Unknown, potentially significant costs for CDFA to possibly provide additional emergency treatment responses to an increase in general pest infestations that would have been mitigated absent this bill. (See staff comments.)

- Unknown, potentially significant cost pressure for DPR and CDFA to analyze new chemistries or applications for pest mitigation as alternatives to the neonicotinoid pesticides that would be banned by this bill. Currently, it costs CDFA approximately $200,000 to analyze a new chemistry or application situation, and use of the same chemistry in different situations or for different pests requires separate analyses. CDFA notes that although it is not possible to identify a specific fiscal impact as a result of this prohibition, there would be costs associated with eliminating pest mitigating tools.

- Unknown, potentially significant ongoing cost pressure (Legal Services Revolving Fund) for the Attorney General's office to enforce provisions of this bill.

SUPPORT: (Verified 8/25/22)

350 Contra Costa
A Voice for Choice Advocacy
Active San Gabriel Valley
American Beekeeping Federation
American Bird Conservancy
American College of Obstetricians and Gynecologists District IX
Breast Cancer Prevention Partners
California Environmental Voters
California Health Coalition Advocacy
California Institute for Biodiversity
California Native Plant Society
California State Parent Teacher Association
California State Parks Foundation
Californians for Pesticide Reform
CALPIRG
Center for Biological Diversity
Center for Environmental Health
Center for Food Safety
Center on Race, Poverty & the Environment
Defenders of Wildlife
Earthjustice
Environment California
Environmental Working Group
Facts: Families Advocating for Chemical & Toxins Safety
Friends Committee on Legislation of California
Friends of Harbors, Beaches and Parks
Friends of the Earth
Heal the Bay
Leadership Counsel for Justice & Accountability
Midpeninsula Regional Open Space District
Natural Resources Defense Council
Pesticide Action Network North America
Poison Free Malibu
Pollinator Stewardship Council, Inc.
Sierra Club California
Sonoma Safe Agriculture Safe Schools
The Democrats of Rossmoor
The Xerces Society for Invertebrate Conservation

OPPOSITION: (Verified 8/25/22)

African American Farmers of California
Agricultural Council of California
Almond Alliance of California
American Chemistry Council
California Agricultural Commissioners & Sealers Association
California Apple Commission
California Association of Wheat Growers
California Association of Winegrape Growers
California Blueberry Association
California Blueberry Commission
California Chamber of Commerce
California Cherry Growers and Industry Association
California Citrus Mutual
California Cotton Ginners and Growers Association
California Farm Bureau Federation
California Fresh Fruit Association
California Golf Course Superintendents Association
California Manufacturers and Technology Association
California Olive Oil Council
California Pear Growers Association
California Seed Association
California Strawberry Commission
California Walnut Commission
Household and Commercial Products Association
Nisei Farmers League
Olive Growers Council of California
Pest Control Operators of California
Plant California Alliance
Western Agricultural Processors Association
Western Growers Association
Western Plant Health Association

ARGUMENTS IN SUPPORT: According to a coalition letter signed by Environment California, the Natural Resources Defense Council, and the California Native Plant Society, "Scientists first became concerned about neonics roughly fifteen years ago, when beekeepers across the country saw losses of honey bee colonies suddenly spike from an average of 10-15% to 30-40% per year. In California, beekeepers have lost between 35% and 45% of their hives annually for most of the last decade, as populations of native bees and other pollinators also

experience dramatic declines. These losses threaten California's ecosystems and more than $15 billion in state agricultural production that depends on bees and other pollinators. A lack of pollinators is already responsible for lower yields of many crops nationwide.

"Animal studies also connect neonics to birth defects and higher rates of death in white-tailed deer fawns and neurological and reproductive harms in other mammals. Widespread water contamination in urban areas shows that non-agricultural uses of neonics are a major source of neonic contamination. Uses such as those on lawns and gardens present a high risk of exposure for children and pets who play in these areas. Nearly all of these preventative uses are unnecessary or easily replaceable with less harmful alternatives."

ARGUMENTS IN OPPOSITION: According to a coalition letter signed by the Agriculture Council of California, the California Chamber of Commerce, and more than 20 other groups, "In California, neonicotinoids are a critical tool used to protect specialty crops from invasive pests and plant diseases. For example, neonicotinoids are necessary to control for the spread of the Asian Citrus Psyilid (ACP), the vector for Huanglongbing (HLB), a disease that kills citrus trees and has no known cure. Since 2009, California citrus producers have assessed themselves a per carton fee to support a program at the California Department of Food and Agriculture to monitor residential, backyard citrus trees to detect ACP. When an ACP is found, a control program begins that notifies homeowners within a specific radius and provides them information about the most effective means to prohibit the spread of ACP, which includes the use of neonicotinoids. These residential treatment actions protect neighborhood citrus trees thereby, protecting commercial citrus groves throughout the state. If these products are no longer available at the consumer level, this program will be negatively impacted and the threat to California's citrus industry will be significant. If these products are no longer available at the consumer level, this program will be negatively impacted and in turn threaten the existence of California's $2 billion citrus industry."

ASSEMBLY FLOOR: 48-17, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Cooley, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wood, Rendon

NOES: Bigelow, Choi, Cunningham, Megan Dahle, Davies, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron

NO VOTE RECORDED: Berman, Mia Bonta, Chen, Cooper, Flora, Gray, Maienschein, Mayes, O'Donnell, Blanca Rubio, Salas, Villapudua, Wilson

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8/26/22 15:41:24

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

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THIRD READING

Bill No: AB 2183
Author: Stone (D), Kalra (D) and Reyes (D), et al.
Amended: 8/22/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-0, 6/22/22
AYES: Cortese, Durazo, Laird, Newman
NO VOTE RECORDED: Ochoa Bogh

SENATE JUDICIARY COMMITTEE: 8-1, 6/28/22
AYES: Umberg, Cortese, Durazo, Hertzberg, McGuire, Stern, Wieckowski, Wiener
NOES: Jones
NO VOTE RECORDED: Borgeas, Caballero

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 49-22, 5/25/22 - See last page for vote

SUBJECT: Agricultural labor relations: elections

SOURCE: United Farm Workers

DIGEST: This bill (1) allows agricultural employers to choose whether to enroll into a "Labor Peace Election", as defined, as an alternative to the existing selection process for exclusive representation; (2) establishes a mail ballot election process by which agricultural employers may select their collective bargaining representation, if their employer agrees to a Labor Peace Agreement, as defined; (3) imposes a new penalty as specified for employers who engage in unfair labor practices, as defined; and (4) requires an employer who petitions for a writ of review in a court of appeal or who otherwise seeks to overturn or modify any order

of the ALRB to post a bond in the amount of the entire economic value of the order as determined by the ALRB.

Senate Floor Amendments of 8/22/22 provide for an alternative "Labor Peace Election" where each agricultural employer would indicate in the last month of the year whether they agree to a labor peace compact for the coming year, as defined; allow agricultural employees to choose their collective bargaining representatives by mail ballot election, described below, if their employer agrees to a Labor Peace Election; and establish a sunset date of January 1, 2028 for the mail-in ballot and Labor Peace Election provisions of AB 2183.

ANALYSIS:

Existing law:

1) Defines "agriculture" to include farming in all its branches, the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities and any practices by a farmer or on a farm in conjunction with farming operations, including preparation for market and delivery to storage. (Labor Code §1140.4)

2) Clarifies that the bargaining unit is all agricultural employees of an employer. If these employees are employed in two or more noncontiguous areas, the Agricultural Labor Relations Board (ALRB) determines the appropriate unit or units of agricultural employees. (Labor Code §1156.2)

3) Allows an agricultural employee or labor organization acting on behalf of agricultural employees to submit a petition to the ALRB. The petition must allege all of the following:

    a) That the number agricultural employees currently employed by the employer named in the petition is not less than 50 percent of the employer's peak agricultural employment for the current calendar year.
    b) That no valid election has been conducted by employees of the named employer within the 12 months immediately preceding the filing of the petition.
    c) That no labor organization is currently certified as the exclusive collective bargaining representative of the agricultural employees of the named employer.
    d) That the petition is not barred by an existing collective bargaining agreement. (Labor Code §1156.3 (a))

4) Requires, upon receipt of a petition signed by at least a majority of the agricultural employees in the employ of the named employer, the ALRB immediately investigate the petition. If the board determines that a bona fide question of representation exists, a representation election by secret ballot must be held within 7 days. (Labor Code §1156.3 (b))

5) Requires that representatives selected by secret ballot by a majority of agricultural employees for the purposes of collective bargaining be considered the exclusive representatives of that bargaining unit with respect to rates of wages, hours of employment or other conditions of employment. (Labor Code §1156)

6) Allows any person to file a signed petition with the ALRB asserting that allegations within the original petition were incorrect, that the ALRB improperly determined the geographic scope of a bargaining unit or objecting to the conduct of the election. The ALRB may refuse to certify the election if it finds that any of the assertions made in such a petition are correct or if it finds that the election was not conducted properly. (Labor Code §1156.3 (2))

7) Requires that the ALRB decertify a labor organization if either of the following occur:

    a) The Department of Fair Employment and Housing finds that the labor organization engaged in discrimination based on a protected class.
    b) The United States Equal Employment Opportunity Commission finds that the labor organization engaged in discrimination on the basis of a protected class.

8) Requires that the ALRB certify a labor organization as an exclusive representative if an employer is found to have engaged in misconduct that would diminish the chance that a new election would be free and fair. (Labor Code §1156.3 (f))

9) Allows the ALRB, upon finding reasonable cause to believe that any person has engaged in or is engaging in an unfair labor practice, petition the superior court in the county where the unfair labor practice occurred for appropriate temporary relief or restraining order. (Labor Code §1157.3)

10) Requires that employers maintain accurate payroll lists that contain the names and addresses of all their employees and make such lists available to the ALRB upon request. (Labor Code §1160.4)

This bill:

1) Designates the election procedure outlined within Labor Code §1156.3 to be called a Polling Place Election.

2) Allows each Agricultural Employer to indicate to the ALRB whether they agree to a labor peace compact, as defined by this bill. This choice is made in the 30 days prior to Jan 1 of each year.

3) Allows an employer to, as an alternative to the above Polling Place Election, enroll in a Labor Peace Election or a Non-Labor Peace Election. As part of a Labor Peace Election, an employer agrees to the following:

   a) A bargaining unit may select a labor organization as its representation without holding a polling place election.
   b) The employer will make no statements for or against union representation to its employees or publicly, including not disparaging a union in any written or verbal communications.
   c) The employer will voluntarily allow labor organizations access to private worksites, as specified.
   d) The employer will not engage in "captive audience meetings", as defined.
   e) The employer will not express preference for one union over another union.

4) Allows agricultural employees to make a choice regarding union representation through a mail ballot election, if their employer agrees to a labor peace election. To that end, allows a labor organization to submit a petition for representation ballot card election to the ALRB. The petition must allege all of the following:

   a) That the number agricultural employees currently employed by the employer named in the petition is not less than 50 percent of the employer's peak agricultural employment for the current calendar year.
   b) That no valid election has been conducted by employees of the named employer within the 12 months immediately preceding the filing of the petition.

c) That the petition is not barred by an existing collective bargaining agreement.

The petition must be supported by individually sealed mail ballots representing at least 50% of currently employed employees, as defined. The labor organization must serve the employer on the same day the petition is filed with the ALRB and the employer must respond within 48 hours. As part of this response, the employer must provide a complete and accurate list of the full names, current street addresses, telephone numbers, job classifications, and crew or department of all currently employed employees in the bargaining unit employed as of the payroll period immediately preceding the filing of the petition, as specified.

5) Allows an agricultural employee or their authorized labor representative to submit a Voting Kit Request Form prior to the submission of a petition for mail ballot election. Only labor organizations which have filed LM-2 forms for the preceding 2 years may request kits for employees. This request form must include the following information:

a) The name, phone number, physical address, and mailing address of the agricultural employee.
b) The name, phone number, physical address, and mailing address of the person submitting the request form.
c) The name of an agricultural employer or farm labor contractor to be associated with the voting kit.
d) A physical or post office box address where the board will mail the voting kit.

Any labor organization representative submitting a Voting Kit Request Form must also submit a document specifying that the agricultural employer has authorized them to submit the request form. This document must be signed by the agricultural employer.

6) Requires each voting kit to be mailed to the designated recipient within 2 business days of ALRB receipt of a Voting Kit Request Form. Each voting kit must contain instructions for mail ballot elections, a standardized mail ballot, and postage paid envelopes with the ALRB's return address. Each mail ballot will be titled "Mail Ballots for Certification of a Labor Organization" and include the following:

a) The opportunity to vote for representation by a labor organization, designated by "Yes Union", followed by a statement indicating that the employee signing it wishes to have a specified labor organization as the employee's collective bargaining representative.
b) The opportunity to vote against representation by a labor organization, designated by "No Union".
c) Sufficient space for the following:

    i) The name of the labor organization.
    ii) The name of the agricultural employer or farm labor contractor used by the agricultural employer.
    iii) The employee's name.
    iv) The signature of the employee.
    v) The date.
    vi) The signature of the person witnessing that the employee signed the ballot card or assisting them in filling out the ballot card, or both.

7) Requires that for a mail ballot described above to be valid, it must be placed in the sealed envelope provided by the ALRB, be signed on the outside by the employee, and be submitted directly to the ALRB. A labor organization representative may fill out the information, except for the employee signature. Each valid ballot remains valid for 180 days.

8) Requires the ALRB to make an administrative decision pertaining to the validity of a submitted petition and whether the requisite number of ballots have been submitted within 5 days of that petition being submitted. Requires the ALRB to notify the labor organization if they fail to submit the requisite number of ballots and allow 30 days from that notification for the collection of additional ballots.

9) Allows any person to file a complaint with the ALRB within 5 days of the certification of a labor organization that alleges one of the following bases for objection:

    a) Allegations in the non-labor peace petition were false.
    b) The ALRB improperly determined the geographical scope of the bargaining unit.
    c) The non-labor peace election was conducted improperly.
    d) Improper conduct affected the results of the non-labor peace election.

10) Requires that the ALRB choose to either rule administratively or conduct a hearing to rule on a petitioner's objection to an election within 14 days of filing. If the board finds the allegations in the objection to be true, the election certification must be revoked.

11) Prohibits another mail ballot election petition from being considered by the ALRB with the same agricultural employer until the board determines whether the labor organization that filed the pending representation ballot card election petition should be certified. Allows the ALRB to consider a second petition only if the second petition alleges that the first petition was filed because of the employer's unlawful assistance, support, creation, or domination of the labor organization that filed the first petition.

12) Requires that the ALRB certify a labor organization as the exclusive representative of an agricultural bargaining unit if it is found that the agricultural employer committed an unfair labor practice during the organization's campaign.

13) Establishes a sunset date of Jan 1, 2028 for provisions 1)-12) of this bill.

14) Imposes a maximum $10,000 penalty on an employer who commits an unfair labor practice, as defined.

    a) This penalty is doubled if it involves a violation of subdivision (c) or (d) of Labor Code Section 1153, up to a maximum of $25,000
    b) In determining the amount of the civil penalty, the ALRB must consider the following:

        i) The gravity of the unfair labor practice.
        ii) The impact of the unfair labor practice on the charging party.
        iii) The financial circumstances of the employer.

15) Creates a rebuttable presumption that an employer who disciplines, suspends, demotes, lays off, terminates, or otherwise takes adverse action against a worker during a labor organization's campaign that the action was retaliatory and illegal. The employer may rebut this by providing clear, convincing, and overwhelming evidence that the adverse action would have been taken in the absence of the campaign.

16) Requires an employer who petitions for a writ of review in a court of appeal or who otherwise seeks to overturn or modify any order of the ALRB involving make-whole, back-pay or other monetary award to post a bond in the amount of the entire economic value of the order as determined by the ALRB.

17) Requires the bond required above to consist of an appeal bond and orders that bond forfeited if the employer fails to pay the amount owed due to a final judgment following appeal within 10 days.

Comments

Need for this bill? The agricultural sector of California remains one of the most profitable industries in the world, generating more than $49 billion in 2020, while agricultural workers frequently suffer from higher rates of poverty, compared to other professions.. After amendments, AB 2183 provides for an alternative path to the current collective bargaining representative election process. As described above, each December an agricultural employer will have the opportunity to enroll in a labor peace compact, which is an agreement not to disparage unions in written or verbal statements and to allow union organizers more leeway to speak to employees.

As referenced in this bill, the case of Cedar Point Nursery v. Hassid, is especially relevant to the fate of AB 2183. Many question how labor unions can effectively organize in the wake of a ruling that so drastically curtails their ability communicate with employees; more still wonder if that is by design.

AB 2183 does add a new penalty to employers who engage in unfair labor practices, as defined, and require employers to post a bond in order to challenge an ALRB ruling involving a monetary award. These are positive changes and hopefully will curb employer attempts to adversely affect unionization campaigns that are demonstrably common. However, huge incentives to stop employees from collective bargaining remain, combined with the vanishingly small chance that employers will ever be investigated or caught.

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

According to the Senate Appropriations Committee:

“ALRB estimates that, based on current election activity, costs to implement the bill would likely be absorbable. However, if election activity increases in the future, ALRB notes that it would require staff resources to ensure timely processing and review of representation ballot card election petitions. Additionally,

the current version of the bill contains provisions (in particular, those related to personal liability and civil penalties) that versions of the bill in previous years did not, potentially leading to additional workload. Thus, the bill could result in costs exceeding $50,000 in a future year (General Fund). Additionally, the bill could result in penalty revenues to the State; the magnitude is unknown but probably minor."

SUPPORT: (Verified 8/22/22)

United Farm Workers (source)
ACLU California Action
AFSCME
Alliance for Boys and Men of Color
California Alliance for Retired Americans
California Catholic Conference
California Federation of Teachers AFL-CIO
California Immigrant Policy Center
California Labor Federation
California Nurses Association
California Professional Firefighters
California Rural Legal Assistance Foundation, Inc.
California School Employees Association
California State Council of Service Employees International Union
California State Legislative Board, Sheet Metal, Air, Rail and Transportation
California Teachers Association
California Teamsters Public Affairs Council
Central Coast Alliance United for a Sustainable Economy
Courage California
Dolores Huerta Foundation
Earthjustice
Mi Familia Vota
National Association of Social Workers, California Chapter
UAW Local 2865
UAW Local 5810
United Food and Commercial Workers, Western States Council
Workers - Transportation Division
Writers Guild of America West

OPPOSITION: (Verified 8/22/22)

African American Farmers of California

Agricultural Council of California
Association of California Egg Farmers
California Association of Winegrape Growers
California Chamber of Commerce
California Citrus Mutual
California Cotton Ginners and Growers Association
California Farm Bureau
California Farm Labor Contractor Association
California Food Producers
California Fresh Fruit Association
California Grain & Feed Association
California Grocers Association
California Manufacturers & Technology Association
California Pear Growers Association
California Restaurant Association
California Retailers Association
California Seed Association
California Strawberry Commission
Carlsbad Chamber of Commerce
Chamber of Commerce Alliance of Ventura and Santa Barbara Counties
Citrus Heights Chamber of Commerce
Citrus Heights Regional Chamber of Commerce
Construction Employers' Association
Family Winemakers of California
Far West Equipment Dealers Association
Fountain Valley Chamber of Commerce
Fresno Chamber of Commerce
Garden Grove Chamber of Commerce
Glendora Chamber of Commerce
Greater Bakersfield Chamber of Commerce
Greater Coachella Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Greater Riverside Chambers of Commerce
Greater San Fernando Valley Chamber of Commerce
Grower-Shipper Association of Central California
Grower-Shipper Association of Santa Barbara and San Luis Obispo Counties
Hayward Chamber of Commerce
Housing Contractors of California
La Cañada Flintridge Chamber of Commerce
Milk Producers Council

National Federation of Independent Business
Nisei Farmers League
North Orange County Chamber of Commerce
Oceanside Chamber of Commerce
Official Police Garage Association of Los Angeles
Pleasanton Chamber of Commerce
Rancho Cordova Area Chamber of Commerce
Rancho Mirage Chamber of Commerce
Redondo Beach Chamber of Commerce
San Gabriel Valley Economic Partnership
Santa Maria Valley Chamber of Commerce
Simi Valley Chamber of Commerce
South Bay Association of Chambers of Commerce
Tulare Chamber of Commerce
Ventura County Agricultural Association
West Ventura County Business Alliance
Western Agricultural Processors Association
Western Growers Association
Wine Institute

ARGUMENTS IN SUPPORT: The United Farm Workers, the sponsor of the bill, write in support:

"The ALRA acknowledged from its inception the imbalance of power and the inherent unfairness between the agricultural employer and a farm worker. The ALRA is and always was meant for the benefit and protection of a farm worker. In fact, the ALRA explicitly encourages and protects: "the right of agricultural employees to full freedom of association, self-organization, and designation of representatives of their own choosing, to negotiate the terms and conditions of their employment, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection." (Labor Code Section 1140.2)

"While ballots will continue to remain secret, farm workers will have a choice in voting at a "polling place" as they do now, or they can receive assistance in filling out and returning their "representation ballot card" as long as the person who assists them co-signs the representation ballot card and returns it to the ALRB in a sealed and signed envelope.

"National approval for unions is the highest it has been since 1965 at 68% but workers face many obstacles to forming a union at their workplace. We need to

make it easier, not harder, for workers to vote in union elections and have the representation they are legally entitled to. AB 2183 is a step in the right direction and would allow farmworkers to vote in union elections like Californians vote in elections."

ARGUMENTS IN OPPOSITION: The California Chamber of Commerce writes in opposition:

> The August 22, 2022 amendments confirm that the bill proponents' goal has never really been about mail-in voting, it has always been to implement card check and force unionization in the agriculture industry. AB 2183 now simply provides that a labor organization will be certified through card check as long as the union shows "proof of majority support," which can be achieved with any "appropriate proof" the union chooses. The only means of not being subject to card check is forced union submission for employers and farmworkers through an involuntary submission to a position of labor neutrality. The employer would be forced to: Not make any statements for or against union representation to its employees or publicly, voluntarily allow labor unions access to its property, not engage in any meetings with employees at which there is any discussion of unions, not disparage any union, and not express preference for a union.
>
> This forced labor neutrality is merely to leverage employers to waive significant rights. For example, a recent Supreme Court decision1 struck down a California law mandating union access to employerproperty as an unconstitutional taking absent just compensation. Rather than providing that just compensation, this workaround is coercing employers into voluntarily letting the unions onto their property. The employer must also waive its First Amendment rights to speak about the union. These requirements are also unrealistic to implement. An employer would never be allowed to mention unions at all to their employees. This means an employer cannot convey any policies concerning unions or organization activity or respond at all if asked about unions or organizing. The employer could also never raise union misconduct without violating the forced labor neutrality. The employer is also required to make a decision about whether to waive these rights each year, even if there is no interest in unionization. Their decision will be posted on a public website for unions to view. Worse, even if the employer submits to this neutrality position, there is still no secret ballot election required. Instead, a union would be installed as a

bargaining unit's representative merely by submitting a petition to the ALRB along with "ballot cards" signed by a majority of affected workers. As in AB 616, vetoed last year by Governor Newsom, this is being portrayed as mail-in voting, but in actuality the union would have the right to request these cards for workers and fill out the cards for them. That language makes clear that the unions have no intention of workers filling these ballots out privately at home or having the ALRB be the ones overseeing the election – the union wants complete control. Unlike in a secret ballot election where employees enter a private booth without any coercion to cast their vote and under the protection of ALRB oversight, the very candidate they are voting for can fill out their ballot for them and turn it in. It is evident that the proposed 2028 sunset is to force the Legislature to consider full card check in all scenarios in five years, regardless of the existence of any labor neutrality.

ASSEMBLY FLOOR: 49-22, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cooley, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Kiley, Lackey, Mathis, Mayes, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Cooper, Irwin, O'Donnell, Quirk-Silva, Blanca Rubio, Villapudua

Prepared by: Jake Ferrera / L., P.E. & R. / (916) 651-1556
8/24/22 14:14:20

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

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THIRD READING

Bill No: AB 2188
Author: Quirk (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 8-2, 6/21/22
AYES: Umberg, Caballero, Durazo, Gonzalez, Laird, McGuire, Stern, Wiener
NOES: Borgeas, Jones
NO VOTE RECORDED: Hertzberg

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 6/29/22
AYES: Cortese, Durazo, Newman, Wiener
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 42-23, 5/26/22 - See last page for vote

SUBJECT: Discrimination in employment: use of cannabis

SOURCE: California NORML

DIGEST: This bill makes it unlawful for an employer to discriminate against a person in hiring or any term or condition of employment, if the discrimination is based upon the person's use of cannabis off the job and away from the workplace or an employer-required drug screening test that has found the person to have nonpsychoactive cannabis metabolites in their urine, hair, or bodily fluids.

Senate Floor Amendments of 8/25/22 add Assemblymember Jones-Sawyer as a co-author, and make clarifying, non-substantive wording changes.

ANALYSIS:

Existing law:

1) Makes it an unlawful employment practice, under the Fair Employment and Housing Act (FEHA), for an employer to refuse to hire, discharge from employment, or otherwise discriminate against a person in compensation or in the terms, conditions, or privileges of employment on account of that person's race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or veteran or military status. (Gov. Code § 12940 (a))

2) Defines employer under FEHA to mean any person regularly employing five or more persons, or any person acting as an agent of an employer, directly or indirectly, the state or any political or civil subdivision of the state, and cities except a religious organization or a corporation not organized for private profit. (Gov. Code § 12926.)

3) States that nothing in the Adult Use of Marijuana Act (AUMA) amends or affects the rights and obligations of employers to maintain a drug and alcohol free workplace or require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growth of cannabis in the workplace, or affect the ability of employers to have policies prohibiting the use of cannabis by employees and prospective employees, or prevent employers from complying with state or federal law. (Health & Saf. Code § 111362.45.)

This bill:

1) Provides it is unlawful for an employer to discriminate against a person in hiring, termination, or any term or condition of employment, or otherwise penalize a person if the discrimination is based upon any of the following:

   a) The person's use of cannabis off the job and away from the workplace;

   b) An employer-required drug screening test that has found the person to have *nonpsychoactive* cannabis metabolites in their urine, hair, or bodily fluids.

2) Exempts from the above section, pre-employment drug testing conducted using methods other than screening for nonpsychoactive cannabis metabolites.

3) Specifies that the provisions of this bill *do not:*

a) Apply to an employee working in the building and construction trades;

b) Permit an employee to be impaired by, use, or possess cannabis on the job;

c) Prohibit an employer from discriminating in hiring, or any term or condition of employment, or otherwise penalize a person based on *scientifically valid pre-employment drug screening* conducted through methods that do not screen for nonpsychoactive cannabis metabolites;

d) Affect the rights or obligations of an employer to maintain a drug and alcohol free workplace, as specified under the Control, Regulate and Tax Adult Use of Marijuana Act;

e) Supersede state or federal laws requiring applicants or employees to be tested for controlled substances, including laws and regulations requiring applicants and employees to be tested, or a specific manner of testing, as a condition of receiving federal funding, receiving federal licensing-related benefits, or entering into a federal contract; or

f) Apply to applicants or employees hired for positions that require a federal government background investigation or security clearance, as specified.

4) Delays implementation of the provisions of AB 2188 until January 1, 2024.

5) Makes findings and declarations about the unreliability of cannabis metabolite tests to identify impairment on the job.

Comments

1) *Need for this bill?*

Recreational use of cannabis has been legal in California since 2016 when a majority of voters approved it. In many circumstances, however, California employers can still lawfully refuse to hire someone because they use cannabis, and workers can still be disciplined or fired for cannabis use, even when that use takes place off the job, away from the worksite, and does not jeopardize safety or otherwise impair the worker's performance. With some specified exceptions, this bill instead prohibits employers from discriminating against applicants or employees on the basis of this kind of cannabis use. In a similar vein, this bill prohibits employers from holding the results of a drug test against an applicant or employee if all that the test reveals is evidence of past cannabis use. Employees could still be fired or disciplined for using cannabis at work. Likewise, applicants and employees could still be disciplined or fired based on

test results showing impairment or the presence of psychoactive chemical compounds from cannabis

2) *State Cannabis Legal Infrastructure*

Proposition 215, the Compassionate Use Act, first legalized cannabis in California for medical consumption in 1996. The initiative shielded qualified patients and primary caregivers from prosecution related to the possession and cultivation of cannabis for medicinal purposes. However, this experiment faced challenge from a skeptical Supreme Court and a hostile Bush Justice Department. In two decisions, *US v. Oakland Cannabis Buyers Collective (2001)* and *Gonzalez v. Raich (2005)*, the Supreme Court demonstrated that citizens, and even medical patients, complying with California law could not expect to do so without federal interference.

These decisions largely froze cannabis regulation in its place until 2015, when the Legislature passed the Medical Cannabis Regulation and Safety Act (MCRSA). MCRSA established, for the first time, a comprehensive statewide licensing and regulatory framework for the cultivation, manufacture, transportation, testing, distribution, and sale of medicinal cannabis to be administered by the Bureau within Department of Consumer Affairs, the Department of Public Health, and the Department of Food and Agriculture, with implementation relying on each agency's area of expertise.

From here, cannabis legal infrastructure gains significant momentum. California Voters passed Proposition 64, which legalized adult-use cannabis in 2016. The Legislature, in response, allocated money over several budgets to fund the regulatory agencies tasked with monitoring cannabis and the Governor eventually consolidated these agencies under a single Department of Cannabis Control (DCC). Establishment of a standalone department with an enforcement arm was intended to centralize and align critical areas to build a successful legal cannabis market, by creating a single point of contact for cannabis licensees and local governments. The goal was to ultimately simplify and centralize State regulatory efforts; improve coordination, including enforcement; reduce barriers to participation in the legal market; and incentivize greater local participation.

However, all of this state infrastructure exists under the shadow of the continuation of the War on Drugs. The Controlled Substances Act still makes the sale and distribution of cannabis illegal under federal law, and *Raich* and *Oakland CBC* are clear evidence that adherence to state laws are not a guarantee of safety. Furthermore, many federal contracts include drug-free

clauses within them, which can jeopardize employers who aren't inclined to test their employees, but who would lose contracts without a compliant drug testing policy. The Biden Administration has demonstrated only studious evasion of the issue, and future Administrations may be more hostile, as they have been in the past

3) *Cannabis Testing*

AB 2188 is designed to ensure that adults cannot be punished at work for exercising their legal right to use cannabis, so long as that use has no impact on the workplace. To accomplish that intent, this bill prohibits employers from discriminating against applicants or employees for use of cannabis off of the job and away from work.

To this end, this bill prohibits employers from taking adverse action against applicants or employees based exclusively on the results of a drug test that detects nothing more than the presence of nonpsychoactive cannabis metabolites in the applicant or worker's urine, hair, or bodily fluids. While such a test result does suggest whether or not the worker has used cannabis at some point in the recent past, it does not tell the employer anything at all about whether the worker is presently impaired from cannabis. According to the Mayo Clinic, metabolites can be detected in a user's body for up to three days after a single use of cannabis, and for up to 10 days for regular users, despite the user no longer being under the influence of cannabis.[1]

However, there is a recognition for the need to strike a balance between the realities of rapidly widening cannabis acceptance and hostile federal laws. Under this bill, employers would be able – where otherwise lawful – to use tests for cannabis use that detect the presence of any chemical compounds that are still psychoactive. In particular, tests that can detect the presence of tetrahydrocannabinol (THC) in saliva or in the bloodstream. Because THC, unlike cannabis metabolites, is a psychoactive chemical compound, its presence can be indicative of current impairment.

Related/Prior Legislation

AB 1256 (Quirk, 2021) would have prohibited employers from discriminating against an applicant or employee based on the result of a drug screening test that has found the person to have nonpsychoactive cannabis metabolites in their urine, hair, or bodily fluids. The bill died in the Assembly Labor Committee.

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[1] Marijuana – Tetrahydrocannabinol (THC). Mayo Clinic https://www.mayocliniclabs.com/testcatalog/drug-book/specific-drug-groups/marijuana (as of Jun. 15, 2022).

AB 2355 (Bonta, 2020) would have prohibited employers from discriminating against applicants or employees for medicinal cannabis use that can be reasonably accommodated. The bill died in the Assembly Labor Committee.

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

According to the Senate Appropriations Committee:

- *DFEH*: DFEH reports ongoing costs of $3.1 million in Fiscal Year (FY) 2023-24 and annually thereafter to receive, investigate, mediate, and prosecute complaints filed under the provisions of AB 2188 (General Fund).

- *Judicial Branch*: Unknown cost pressures due to increased court workload to adjudicate alleged complaints that are filed under the provisions of AB 2188 (Special Fund – Trial Court Trust Fund, General Fund).

SUPPORT: (Verified 8/26/22)

California NORML (source)
Americans for Safe Access
Black Leadership Council
California Board of Registered Nursing
California Cannabis Industry Association
California Employment Lawyers Association
California Nurses Association
California State Council of Service Employees International Union
Cannabis Equity Policy Council
Dr. Bronner's
Drug Policy Alliance
Good Farmers Great Neighbors
Last Prisoner Project
Los Angeles Housing Compliance
Origins Council
The Parent Company
UDW/AFSCME Local 3930
United Cannabis Business Association
United Food and Commercial Workers, Western States Council

OPPOSITION: (Verified 8/26/22)

Acclamation Insurance Management Services
Allied Managed Care

Allied Safety and Health LLC
California Apartment Association
California Asian Pacific Chamber of Commerce
California Association of Joint Powers Authorities
California Association of Winegrape Growers
California Attractions and Parks Association
California Business Properties Association
California Business Roundtable
California Chamber of Commerce
California Farm Bureau
California Landscape Contractors Association
California League of Food Producers
California Manufacturers & Technology Association
California Narcotic Officers' Association
California Restaurant Association
California Retailers Association
California State Association of Counties
California Travel Association
Coalition of Small and Disabled Veteran Businesses
Family Business Association of California
Flasher Barricade Association
Glendora Chamber of Commerce
National Federation of Independent Business
Official Police Garages of Los Angeles
Public Risk Innovation, Solutions, and Management
Rural County Representatives of California

ARGUMENTS IN SUPPORT: The United Food and Commercial Workers, Western States Council writes in support:

> Adult cannabis consumption is legal in California, and employees have the right to engage in legal behaviors when they are off-the-job without interference or discrimination from their employers. Yet many employers in California still discriminate against employees and prospective employees who consume cannabis when they are not at work. Cannabis metabolites testing, or the threat of cannabis metabolites testing, is the most common way that employers threaten or harass employees or prospective employees who may consume cannabis on their own time. Urine and hair tests are common types of metabolite testing.

AB 2188 clarifies that employers may not discriminate against employees or prospective employees who consume cannabis when they are not at work. This bill also prohibits cannabis metabolites testing for all employers who are not required to conduct cannabis metabolites testing under federal law.

Cannabis metabolites are the non-psychoactive substances that can be detected in a person's bodily fluids for up to several weeks after they have consumed cannabis. Testing positive for cannabis metabolites has no scientific value in establishing that a person is impaired or "high." When employers use cannabis metabolites tests to discriminate against employees or prospective employees, they are most likely discriminating against people who are not impaired at work and who consumed cannabis when they were off the job.

This bill does not bar employers from maintaining that employees may not be impaired or "high" on-the-job. And it does not prohibit other forms of testing, such as performance-based impairment testing or tetrahydrocannabinol testing. Tetrahydrocannabinol (THC) is the impairing substance in cannabis, and there are readily available tests for THC via bodily fluids such as saliva and blood. These forms of testing may establish that a person has consumed cannabis in the past several hours. This bill does not prohibit employers from testing for THC, or taking action against employees or prospective employees who test positive for THC or who fail a performance-based impairment test.

ARGUMENTS IN OPPOSITION: The California Chamber of Commerce writes in opposition:

Even with these new amendments, AB 2188 will create a protected status for marijuana use in FEHA and California employers may face liability when they take legitimate disciplinary measures against their employees. Put simply: marijuana use is <u>not</u> the same as protecting workers against discrimination based on race or national origin and should not be in FEHA. California employers should not have to fight out proper, impairment-based terminations in FEHA. Moreover, employers <u>must</u> be able to keep their workplace safe by disciplining employees who arrive at work impaired.

If California policymakers wish to force a shift towards newer testing technologies – that is one thing. But we do not believe marijuana should be elevated to a legally-protected status above comparable drugs (like alcohol).

ASSEMBLY FLOOR: 42-23, 5/26/22
AYES: Aguiar-Curry, Arambula, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cooley, Daly, Mike Fong, Friedman, Eduardo Garcia,

Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, McCarty, Medina, Mullin, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NOES: Bigelow, Cervantes, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Kiley, Lackey, Mathis, Muratsuchi, Nguyen, Patterson, Salas, Seyarto, Smith, Valladares, Voepel, Waldron

NO VOTE RECORDED: Bauer-Kahan, Berman, Cooper, Gabriel, Cristina Garcia, Gipson, Irwin, Maienschein, Mayes, O'Donnell, Ramos, Rodriguez, Villapudua

Prepared by: Jake Ferrera / L., P.E. & R. / (916) 651-1556
8/26/22 15:41:24

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

SENATE RULES COMMITTEE AB 2199
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THIRD READING

Bill No: AB 2199
Author: Wicks (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 7-1, 6/15/22
AYES: Pan, Eggman, Gonzalez, Hurtado, Leyva, Limón, Wiener
NOES: Grove
NO VOTE RECORDED: Melendez, Roth, Rubio

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 67-0, 5/25/22 - See last page for vote

SUBJECT: Birthing Justice for California Families Pilot Project

SOURCE: Black Women for Wellness Action Project

DIGEST: This bill establishes the Birthing Justice for California Families Pilot Project, upon an appropriation, to be administered by the Department of Public Health (CDPH) that includes a three-year grant program to fund specified entities to provide doula care to members of communities with high rates of negative birth outcomes who are not eligible for Medi-Cal, including incarcerated people. This bill sunsets the provisions on January 1, 2029.

Senate Floor Amendments of 8/25/22 incorporate technical assistance from CDPH and do the following:

- Strike references to "full spectrum doula care" and only use "doula care";
- Strike the definition of "full spectrum doula care" and instead reference the definition of doula care used by the Department of Health Care Services (DHCS);

- Make changes to the process for awarding grants for those providing doula care, including extending the date for an application by six months, and requiring grant recipients to submit data to evaluate a project;

- Increase from five to 15% the amount of funds allowed to be used for administrative costs;

- Clarify allowable uses for grant funds;

- Specify that doulas who receive grant funds must comply with the core competencies required to provide services under the Medi-Cal program's doula benefit;

- Extend the requirement for CDPH to submit a report by two years; and,

- Extend the sunset date of the program created by this bill by one year.

ANALYSIS:

Existing law:

1) Establishes the Medi-Cal program, which is administered DHCS under which qualified low-income individuals receive health care services. [WIC §14000, et seq.]

2) Requires DHCS to convene a workgroup to examine the implementation of the doula benefit provided under the Medi-Cal program no later than April 1, 2022, and until December 31, 2023. Requires the workgroup to be comprised of doulas, health care providers, consumer and community advocates, health plans, county representatives, and other stakeholders with experience with doula services as determined by DHCS. [WIC §14132.24]

3) Establishes the California Department of Public Health (CDPH) to be vested with all the duties, powers, purposes, functions, responsibilities, and jurisdiction as they relate to public health. [HSC §131050]

4) Requires CDPH to develop and maintain a statewide comprehensive community-based perinatal services program and enter into contracts, grants, or agreements with health care providers, in medically underserved areas or areas with demonstrated need, to deliver these services in a coordinated effort to the extent permitted under federal law and regulation, as specified. [HSC §123490]

5) Requires CDPH to maintain a program that addresses the special needs of high-risk pregnant women and infants, as specified. Defines "high-risk pregnant woman" as a woman considered highly likely for any reason to suffer personal mortality or morbidity from her pregnancy, or to deliver a defective, disabled, high-risk, or stillborn infant. [HSC §123560, 123565]

This bill:

1) Establishes the Birthing Justice for California Families Pilot Project, upon an appropriation by the Legislature, to be administered by CDPH that includes a three-year grant program to fund community-based doula groups, local public health departments, and other organizations to provide doula care to members of communities with high rates of negative birth outcomes who are not eligible for Medi-Cal, including incarcerated people.

2) Requires CDPH, in awarding grants, to do all of the following:

   a) On or before January 1, 2024, post applications for grants on its website and solicit applications;

   b) On or before July 1, 2024, award grants to selected entities based on the eligibility criteria; and,

   c) Require grant recipients to submit data to evaluate the pilot project, as determined by CDPH, and establish standard metrics to ensure consistency in data collection.

3) Requires all of the following entities to be eligible to apply for grant funding under the pilot program:

   a) Community-based doula groups;

   b) Community-based organizations serving pregnant, birthing, and postpartum people with accurate information that is generally accepted and approved of within the doula profession;

   c) Birthing centers;

   d) Local public health departments; and,

   e) Public and district hospitals with programs serving birthing people.

4) Requires a grant recipient to use grant funds to pay for costs associated with providing doula care to specified individuals and establishing, managing, or

expanding doula services. Specifies costs associated with providing doula care include, but are not limited to, all of the following:

a) Payment for doulas;

b) Travel expenses that are related to the provision of doula care for doulas and their clients;

c) Educational materials;

d) Incidental costs that a doula incurs in providing for the needs of families including, but not limited to, meals, diapers, baby formula, and household items; and,

e) Administrative costs, capped at 15% of grant funds, associated with providing doula care.

5) Creates requirements for a grant recipient in setting the payment rate for a doula who is being paid with grant funds, such as including payment for perinatal care; setting the rate at an amount that is not less than the Medi-Cal reimbursement rate for doulas; and considering such things as the cost of living in communities served by the grant recipient, the market rate for doula care, and the minimum sustainable living wage in the community.

6) Permits grants recipients to provide doula care for pregnant and birthing people in communities that experience high rates of birth disparities with incomes less than 600% of the federal poverty level who do not qualify for Medi-Cal, including incarcerated people; pregnant and birthing people from communities that experience high rates of negative birth outcomes; and pregnant and birthing people who would be eligible for Medi-Cal but for their immigration status.

7) Requires doulas who are paid with grant funds to demonstrate core competencies required under the Medi-Cal program's doula benefit.

8) Requires CDPH, on or before January 1, 2029, to submit a report to the appropriate policy and fiscal committees of the Legislature on the expenditure of funds and relevant outcome data for the pilot project. Requires the report to examine the impact of the pilot program on a range of outcomes, including those focused on client and client family experience, prenatal and postpartum care engagement, doula workforce retention, cost savings, and clinical outcomes.

9) Sunsets the provisions of this bill on January 1, 2029.

Comments

1) *Author's statement.* According to the author, doulas provide physical, emotional, and informational support to birthing people during labor, birth, and in the immediate postpartum period. Studies have shown that doula care is associated with improved birth outcomes. California has taken significant steps in expanding access to doula care, but there are still underserved communities that experience adverse maternal and infant health outcomes and cannot access doula services. This bill will increase access to doula services in order to reduce barriers to healthy pregnancies, and will establish a three-year pilot program to provide grants to fund community-based doula groups and other organizations to provide doula care to communities with high negative birth outcomes who are not eligible for Medi-Cal, such as incarcerated people.

2) *Doulas.* According to the Maternal Health Task Force at Harvard Chan School Center of Excellence in Maternal and Child Health website, a doula is a non-clinical professional who provides educational, emotional, and physical support to clients during pregnancy, labor and delivery, and postpartum. Currently, there is no federal regulation of the doula profession, and therefore, no universally accepted competencies. In the United States, there are over 80 organizations and programs that train or certify doulas, and each has its own approach, scope of practice, and educational content. According to a Cochrane Review published in 2017, continuous support during childbirth is linked to benefits for birthing people including higher patient satisfaction, increased likelihood of spontaneous vaginal delivery, and shorter labors while posing no risk of harm to parent or baby. Some studies have also found that doula care is associated with decreased risks of preterm birth and postpartum depression, better infant Apgar scores, and higher breastfeeding rates in some populations. More rigorous research is needed to better understand how doula care impacts short- and long-term maternal and newborn health outcomes in different populations. Reductions in C-sections and preterm births in particular can lead to substantial cost savings for health care systems, pointing to a potential return on investment from doula care. In addition to reducing costs, doulas offer an opportunity for health care systems to reduce workloads for nurses and frontline providers with many simultaneous responsibilities, retain patients for future pregnancies and other services, and attract new patients by providing a unique, valuable service. In 2017, the American College of Obstetricians and Gynecologists reaffirmed their position on continuous labor support, such as that provided by doulas, stating that evidence suggests, in addition to regular nursing care, continuous one-to-one emotional support provided by support personnel, such as a doula, is associated with improved outcomes for women in

labor. Benefits found in randomized trials include shortened labor, decreased need for analgesia, fewer operative deliveries, and fewer reports of dissatisfaction with the experience of labor.

3) *Perinatal and pregnancy services for the incarcerated.* A January 2016 ACLU of California report, "Reproductive Health Behind Bars in California," states that pregnant people housed in incarceration settings face significant barriers to accessing adequate pregnancy care. Once an incarcerated person finds out they are pregnant, they have a decision to make, just as pregnant people outside of jails and prisons do. They must decide whether to carry the pregnancy to term and either parent the child or choose adoption, or whether to terminate the pregnancy through abortion. The National Commission on Correctional Health Care states that incarcerated people who learn they are pregnant should be provided comprehensive and unbiased options counseling that includes information about prenatal care, adoption, and abortion. While this bill is not specific only to incarcerated persons who are or may become pregnant, information provided by the author's office cites that approximately 210,595 women were in state or federal prison or jail in the U.S. at the end of 2015, a 645% increase since 1980. Almost three-quarters of incarcerated women fall within the prime childbearing age range of 18 to 44, although not all persons who are of childbearing age identify as women. Additionally, the Minnesota Prison Doula Project discovered that incarcerated participants had healthier pregnancies and babies than those who did not participate, finding that doula care promoted a more satisfying birthing experience overall. In California, AB 732 (Bonta, Chapter 321, Statutes of 2020) requires, among other things, incarcerated pregnant persons to be given access to community-based programs serving pregnant, birthing, or lactating inmates, and permits an incarcerated pregnant person to elect to have a support person present during childbirth.

4) *Doula coverage under Medi-Cal.* SB 65 (Skinner, Chapter 449, Statutes of 2021), known as the "California Momnibus Act," requires DHCS to convene a workgroup to examine the implementation of doula services as a Medi-Cal benefit. As a result, doula services will be available to birthing people who qualify for Medi-Cal and want access to doula care. DHCS is currently working on implementing this benefit through its workgroup. According to its website, DHCS states doula services will be added to the list of preventive services covered under the Medi-Cal program starting January 1, 2023, which include personal support to women and families throughout a woman's pregnancy, childbirth, and postpartum experience. This includes emotional and physical support, provided during pregnancy, labor, birth, and the postpartum period. Pursuant to federal regulations, doula services must be recommended by a

physician or other licensed practitioner. DHCS states that in order to allow for the successful implementation of the doula benefit, it adjusted the launch date from July 1, 2022, to January 1, 2023. DHCS states this change was needed to allow it to continue working with stakeholders to further define and develop the benefit, implement needed changes to the Provider Application and Verification for Enrollment system to allow doulas to enroll as Medi-Cal providers, seek and obtain federal approval, and give Medi-Cal managed care plans additional time to plan for and implement the benefit. The new effective date will also allow for a more robust stakeholder engagement process to assist DHCS with implementation.

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

According to the Senate Appropriations Committee:

- Costs for the grants would be limited to the amount provided in an appropriation.
- Costs for state staffing to administer the program would be dependent on the amount of grant funding. However, costs to administer two to four grants would be about $1.2 million for each year of the pilot program.
- Staff to develop regulations.
- Costs to administer the required training component to ensure doula competencies. CDPH estimates costs of several million dollars to either contract with a training entity or to provide the services through the program.

SUPPORT: (Verified 8/11/22)

Black Women for Wellness Action Project (source)
ACCESS Reproductive Justice
ACLU California Action
ACT for Women and Girls
Alameda County Board of Supervisors
American Heart Association
Asian Pacific Partners for Empowerment, Advocacy and Leadership
Autoimmune Community Institute
Bay Area Regional Health Inequities Initiative
Birth Equity Advocacy Project
Breast Cancer Prevention Partners
California Black Health Network

California Latinas for Reproductive Justice
California Nurse-Midwives Association
California Pan-Ethnic Health Network
California Rural Legal Assistance Foundation
California Women's Law Center
Ceres Community Project
Courage California
First 5 Association of California
In Our Own Voice: National Black Women's Reproductive Justice Agenda
Jermott Rollins Group
Latino Coalition for a Healthy California
Mu Lambda Omega Chapter of Alpha Kappa Alpha Sorority, Inc.
NARAL Pro-Choice California
National Birth Equity Collaborative
National Health Law Program
Public Health Advocates
Restoration Community Development Corporation
Sacramento Homeless Union
Sacramento Native American Health Center
Southern California Area National Council of Negro Women
Testimonial Community Love Center
Western Center on Law and Poverty
Women's Foundation California
Youth Forward

OPPOSITION: (Verified 8/11/22)

None received

ARGUMENTS IN SUPPORT: The Black Women for Wellness Action Project, sponsor of this bill, and other supporters state that although California's overall maternal mortality rate has declined by 65% since 2006, mortality and morbidity for Black and Indigenous/Native-American birthing people and babies remain considerably higher than the state's average. Research indicates that racism and implicit bias, among other inequities, are root causes of the disparities in birth outcomes that Black, Indigenous, and other birthing people of color face. In California, the pregnancy-related mortality ratio for Black women is now four to six times greater than that of other racial/ethnic groups, indicating a widening disparity. Data indicates that even after controlling for education and socioeconomic status, Black women and birthing people remain at disproportionately higher risk for maternal mortality. In California, the rate of

preterm births among Black and Native-American birthing people is 40% higher than preterm births for their white counterparts, and Latinx birthing people have the second highest rate of low birthweight babies in the state.

ASSEMBLY FLOOR: 67-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Flora, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Bigelow, Chen, Davies, Fong, Gallagher, Kiley, Lackey, O'Donnell, Seyarto, Smith

Prepared by: Reyes Diaz / HEALTH / (916) 651-4111
8/26/22 15:41:25

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

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THIRD READING

Bill No: AB 2201
Author: Bennett (D), et al.
Amended: 8/11/22 in Senate
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 6-3, 6/14/22
AYES: Stern, Allen, Hertzberg, Hueso, Laird, Limón
NOES: Jones, Eggman, Grove

SENATE GOVERNANCE & FIN. COMMITTEE: 3-1, 6/29/22
AYES: Durazo, Hertzberg, Wiener
NOES: Nielsen
NO VOTE RECORDED: Caballero

SENATE APPROPRIATIONS COMMITTEE: 4-2, 8/11/22
AYES: Portantino, Bradford, Laird, Wieckowski
NOES: Bates, Jones
NO VOTE RECORDED: McGuire

ASSEMBLY FLOOR: 44-24, 5/23/22 - See last page for vote

SUBJECT: Groundwater sustainability agency: groundwater extraction permit: verification

SOURCE: Author

DIGEST: This bill prohibits local agencies from approving permits for new or altered wells unless specified conditions are met.

ANALYSIS:

Existing law:

1) Provides the Department of Water Resources (DWR) is responsible for issuing standards for constructing, altering, maintaining, and destroying wells to protect

groundwater quality. DWR issues standards for four types of wells – water wells, monitoring wells, cathodic protection wells, and geothermal heat exchange wells. (Water Code (WC) §§ 13800 *et seq.*)

DWR published those standards in Bulletin 74-81, and issued a supplement in June 1991. Those standards are currently being revised. The target for completion is December 2022.

2) Requires, each county, city, or water agency, where appropriate, to adopt a water well, cathodic protection well, and monitoring well drilling and abandonment ordinance that meets or exceeds the standards contained in Bulletin 74-81. (WC §13801(c))

3) Provides, under the California Environmental Quality Act (CEQA), as recently interpreted by the California Supreme Court (*Protecting Our Water and Environmental Resources v. County Of Stanislaus* (2020) 10 Cal.5th 479):

   a) The authorization of water well construction is a project subject CEQA.
   b) The authorization may be a ministerial or discretionary action, depending on the specifics of the underlying ordinance and the facts associated with the authorization.
   c) Discretionary projects require some level of environmental review; ministerial projects do not.

4) Provides, under the Sustainable Groundwater Management Act (SGMA):

   a) DWR is required to categorize each basin as one of the following priorities: High priority, medium priority, low priority, or very low priority. (WC §10722.4)

      i) California has 515 groundwater basins and subbasins that provide about 40 percent of the state's water supply. Of these 515 basins, DWR has designated 127 basins as high- or medium-priority basins. These 127 basins account for about 96 percent of the state's groundwater use and are overlain by about 88 percent of the population served by groundwater. Additionally, 21 of these basins have been identified by DWR as being in a condition of critical overdraft.
      ii) SGMA requires the formation of groundwater sustainability agencies (GSAs) in medium- and high-priority groundwater basins.

iii) GSAs are authorized but not required to be formed in low and very low priority basins.

b) Each high- and medium-priority basin is required to have one or more GSA. GSAs must then develop and implement a groundwater sustainability plan (GSP) to achieve groundwater sustainability. (WC §10727)
c) "Sustainable groundwater management" means the management and use of groundwater in a manner that can be maintained during the 50 year planning and implementation horizon without causing undesirable results, as defined. (WC §10721 (v) & (x))
d) SMGA does not apply to the adjudicated areas or a local agency that conforms to the requirements of an adjudication of water rights for specified adjudicated areas (WC § 10720.8)
e) In enacting SGMA, it is the intent of the legislature, among other things, to manage groundwater basins through the actions of local governmental agencies to the greatest extent feasible, while minimizing state intervention to only when necessary to ensure that local agencies manage groundwater in a sustainable manner. (WC §10720.1(h))

5) Includes, pursuant to the Governor's March 28, 2022 executive order regarding drought, provisions requiring:

a) During this drought emergency, a county, city, or other public agency shall not:

i) Approve a permit for a new groundwater well or for alteration of an existing well in a basin subject to SGMA and classified as medium- or high-priority without first obtaining written verification from the appropriate GSA that groundwater extraction by the proposed well would not be inconsistent with any sustainable groundwater management program established in any applicable GSP adopted by that GSA and would not decrease the likelihood of achieving a sustainability goal for the basin covered by such a plan; or
ii) Issue a permit for a new groundwater well or for alteration of an existing well without first determining that extraction of groundwater from the proposed well is (1) not likely to interfere with the production and functioning of existing nearby wells, and (2) not likely to cause subsidence that would adversely impact or damage nearby infrastructure.

b) This requirement does not apply to permits for wells that will provide less than two acre-feet per year of groundwater for individual domestic users, or that will exclusively provide groundwater to public water supply systems as defined in Section 116275 of the Health and Safety Code. (EO N-7-22, Paragraph 9)

This bill:

1) Requires counties to forward well permit applications to the relevant GSA.

2) Prohibits a county, city, or any other water well permitting agency from approving a permit for a new groundwater well or for alteration of an existing well in a basin subject to SGMA and classified as medium or high priority unless all of the following conditions are met:

   a) The well permitting agency obtains written verification from a GSA managing the basin or area of the basin where the well is proposed to be located that groundwater extraction by the proposed well meets both of the following conditions:

      i) The proposed well would not be inconsistent with any sustainable groundwater management program established in any applicable GSP or alternate plan approved or under review by the department; and
      ii) The proposed well would not decrease the likelihood of achieving a sustainability goal for the basin covered by such a plan.

   b) The permit applicant has provided the permitting agency a written report prepared by a professional engineer or geologist that indicates the extraction by the proposed well is unlikely to cause well interference, as defined; and
   c) The permitting agency posts the well permit application on its internet website for at least 30 days.

3) Excludes from these provisions:

   a) Permits for wells that will provide less than two acre-feet per year of groundwater for individual domestic users;
   b) Permits for wells that will exclusively provide groundwater to public water supply systems or state small water systems, as defined in existing law;
   c) Maintenance of a well;
   d) Alterations, replacement, or maintenance to a well pump; and
   e) Permits for wells in adjudicated basins.

4) Includes findings and declarations to support its purposes.

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

According to the Senate Appropriations Committee, "Unknown costs, but likely in excess of $150,000 (Special Fund), to the State Water Resources Control Board (State Water Board) in instances where the State Water Board might need to make determinations for permits in unmanaged areas or probationary basins. The board may be able to recover costs for its activities via fees imposed on groundwater extractors."

SUPPORT: (Verified 8/12/22)

Active San Gabriel Valley
American Rivers
Audubon California
California Coastkeeper Alliance
California Democratic Party
California Environmental Voters
California Rural Legal Assistance Foundation
Ceja Action
Center for Climate Change & Health
Civicwell
Clean Water Action
Community Water Center
Dolores Huerta Foundation
Environmental Defense Center
Environmental Working Group
Leadership Counsel for Justice & Accountability
League of Women Voters California
Mono Lake Committee
Natural Resources Defense Council
North County Watch
Physicians for Social Responsibility - Los Angeles
Planning and Conservation League
Policylink
Sierra Club California
The Nature Conservancy
Tuolumne River Trust
Union of Concerned Scientists

Water Foundation
We Advocate Through Environmental Review
2 individuals

OPPOSITION: (Verified 8/12/22)

African American Farmers of California
Agricultural Council of California
Almond Alliance of California
Association of California Water Agencies
Brea Chamber of Commerce
CA Cotton Ginners & Growers Association
California Association of Environmental Health Administrators
California Association of Winegrape Growers
California Chamber of Commerce
California Citrus Mutual
California Cotton Ginners and Growers Association
California Farm Bureau Federation
California Fresh Fruit Association
California Grain and Feed Association
California Groundwater Association
California Groundwater Coalition
California League of Food Producers
California Municipal Utilities Association
California Pear Grower Association
California Seed Association
California State Association of Counties
California Walnut Commission
Carlsbad Chamber of Commerce
Chico Chamber of Commerce
County of Fresno
County of Kern
County of Kings
County of Madera
County of Merced
County of Monterey
County of San Joaquin
County of Stanislaus
County of Tulare
Desert Water Agency
Family Winemakers of California

Fillmore and Piru Basins Groundwater Sustainability Agency
Greater Coachella Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Imperial Valley Regional Chamber of Commerce
Kern Groundwater Authority
LA Canada Flintridge Chamber of Commerce
Livermore Valley Chamber of Commerce
Lodi Chamber of Commerce
Mid-Kaweah Groundwater Sustainability Agency
Modesto Chamber of Commerce
Monterey County Farm Bureau
Murrieta Wildomar Chamber of Commerce
Nisei Farmers League
Oceanside Chamber of Commerce
Orange County Business Council
Pleasant Valley County Water District
Rural County Representatives of California
Salinas Valley Basin Groundwater Sustainability Agency
Santa Maria Valley Chamber of Commerce
Solano County Water Agency
Sonoma County Water Agency
South San Joaquin Irrigation District
Southwest California Legislative Council
Stanislaus County
Tri County Chamber Alliance
Tulare Chamber of Commerce
United Water Conservation District
Valley Ag Water Coalition
Western Agricultural Processors Association
Western Growers Association
Western Plant Health Association
Wine Institute
Winegrowers of Napa County

ARGUMENTS IN SUPPORT: The authors of SGMA, former Senator Fran Pavley and former Assemblymember Roger Dickinson write "A central pillar of SGMA has been local implementation. Specifically, those who are closest to the basins are best equipped to sustainably manage the basins, namely through the formation of new local Groundwater Sustainability Agencies (GSAs) and Groundwater Sustainability Plans (GSPs). However, a clear gap has been identified

between land use and groundwater management for local GSAs entrusted to manage the basin. GSAs currently do not have uniform mechanisms to verify the alignment of new groundwater wells with their GSPs, which will directly impact the groundwater basin they manage. Currently, the responsibility and authority to issue well permits lie solely at the county level. However, counties are not tasked with reaching groundwater sustainability and typically issue permits without considering the prevention of undesirable impacts or permanent damage to aquifers, communities, and infrastructure. More recently, Governor Newsom issued an Executive Order to prevent new wells from being approved unless they are consistent with groundwater sustainability and do not adversely impact domestic wells or public infrastructure. However, it is our belief that this long-standing gap must be addressed with a long-term solution beyond declared drought emergencies. AB 2201 offers a legislative solution to help protect groundwater for communities."

ARGUMENTS IN OPPOSITION: A coalition of agricultural and other business interests raise a number of objections. These include:

Untimely. The EO was issued "on March 28, 2022, which imposes substantially similar requirements on counties and GSAs related to new well permitting. Counties and GSAs are currently struggling to determine how to best implement the Executive Order's requirements. Keep in mind that the Executive Order is tied to the declaration of a drought emergency. Thus, the Executive Order may address current drought concerns, but is not a permanent change in law. AB 2201 would codify the Executive Order at a time when it is not appropriate."

Applies To Sustainable Basins. "This bill creates mandates for all medium- and high-priority basins; it is not limited to those basins subject to critical overdraft. SGMA treats critically overdrafted basins differently than other medium- or high-priority basins, the vast majority of which are being sustainably managed. The process for prioritizing basins is based more on population and the relative reliance on groundwater for water supply than how sustainably the basin is managed."

ASSEMBLY FLOOR: 44-24, 5/23/22
AYES: Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Low, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NOES: Aguiar-Curry, Bigelow, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Kiley, Lackey, Mathis, Nguyen, Patterson, Salas, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Mia Bonta, Grayson, Levine, Maienschein, Mayes, O'Donnell, Rodriguez, Blanca Rubio, Villapudua

Prepared by: Dennis O'Connor / N.R. & W. / (916) 651-4116
8/15/22 13:40:07

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

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THIRD READING

Bill No: AB 2204
Author: Boerner Horvath (D), et al.
Amended: 8/22/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-0, 6/22/22
AYES: Cortese, Durazo, Laird, Newman
NO VOTE RECORDED: Ochoa Bogh

SENATE ENERGY, U. & C. COMMITTEE: 11-2, 6/27/22
AYES: Hueso, Becker, Bradford, Dodd, Eggman, Gonzalez, Hertzberg, McGuire, Min, Rubio, Stern
NOES: Dahle, Grove
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: 4-2, 8/11/22
AYES: Portantino, Bradford, Laird, Wieckowski
NOES: Bates, Jones
NO VOTE RECORDED: McGuire

ASSEMBLY FLOOR: 63-11, 5/26/22 - See last page for vote

SUBJECT: Clean energy: Labor and Workforce Development Agency: Deputy Secretary for Climate

SOURCE: Author

DIGEST: This bill establishes, upon appropriation by the Legislature, the position of Deputy Secretary for Climate within the Labor and Workforce Development Agency (LWDA), as specified.

Senate Floor Amendments of 8/22/22 make a technical change to correct an erroneous reference to the statutory division from "part" to the correct reference "chapter".

ANALYSIS:

Existing law:

1) Establishes the Labor and Workforce Development Agency (LWDA) to serve California workers and businesses by improving access to employment and training programs; enforcing California labor laws to protect workers and create an even playing field for employers; and administering benefits that include workers' compensation, unemployment insurance, disability insurance, and paid family leave. (Government Code § 15550 et seq.)

2) Establishes the California Global Warming Solutions Act of 2006 (AB 32, Núñez, Chapter 488, Statutes of 2006), which requires the California Air Resources Board (CARB) to adopt a statewide greenhouse gas (GHG) emissions limit equivalent to 1990 levels by 2020 and to adopt rules and regulations to achieve maximum technologically feasible and cost-effective GHG emission reductions. Requires CARB to ensure the state reduces California GHG emissions to at least 40% below the 1990 level by 2030. (Health and Safety Code § 38500 et seq.)

3) Requires the California Workforce Development Board (CWDB) to publish a report outlining recommendations on workforce development and training to help communities adapt to the economic and labor-market changes resulting from California's transition to a carbon neutral economy. (HSC § 38591.3)

4) Establishes the 100 Percent Clean Energy Act of 2017 which increases the Renewables Portfolio Standard (RPS) requirement from 50% by 2030 to 60%, and creates the policy of planning to meet all of the state's retail electricity supply with a mix of RPS-eligible and zero-carbon resources by December 31, 2045, for a total of 100% clean energy. (Public Utilities Code § 454.53)

5) Establishes the Greenhouse Gas Reduction Fund (GGRF) and requires all moneys, except for fines and penalties, collected by CARB from the auction or sale of allowances pursuant to a market-based compliance mechanism to be deposited in the GGRF and available for appropriation by the Legislature. (GC §16428.8)

6) Establishes the California Jobs Plan Act of 2021, which requires CARB to work with the LWDA to update, by July 1, 2025, the funding guidelines for administering agencies to ensure that all applicants to grant programs funded by the GGRF meet fair and responsible employer standards and provide inclusive procurement policies. (GC § 38599.10 et seq.)

This bill:

1) Establishes, upon appropriation by the Legislature, the position of Deputy Secretary for Climate within LWDA, appointed by the Governor, to assist in the oversight of California's workforce transition to a sustainable and equitable carbon neutral economy.

2) Requires the Deputy Secretary to coordinate with relevant state agencies to track the progress of the state moving toward 100 percent clean energy, as defined, and create or coordinate programs with other state agencies to retrain and upskill workers for clean energy jobs and jobs in related fields.

3) Provides that the chapter established by this bill shall become operative only upon an appropriation by the Legislature in the annual Budget Act or another statute for the purposes of implementing the chapter.

4) Repeals these provisions on January 1, 2046.

5) Makes legislative findings and declarations and defines "Agency", "Clean energy", "Deputy secretary", and "Energy commission", as specified.

Comments

Need for this bill? The author states the following:

"According to a 2021 report, there are about 113,000 people employed in the 14 fossil fuel and ancillary industries in California. It is estimated that in a steady closure of the fossil fuel sector, about 3,200 workers per year will be displaced and require re-training."

"At the state level, recent efforts have been made to prioritize a just transition. In September 2020, Governor Newsom signed Executive Order N-79-20, which directed OPR to design the state's first Just Transition Roadmap to provide a framework for the state's economic recovery that recognizes global and statewide shifts in key industries and regional economies likely to result from a transition to carbon neutrality. The roadmap has yet to be published.

"In 2021, a budget trailer bill was enacted that establishes the Community Economic Resilience Fund (CERF) Program to build an equitable and sustainable economic recovery from the impacts of COVID-19 on California's industries, workers, and communities, and to provide for the durability of that recovery by fostering long-term economic resilience in the overall transition to a carbon-neutral economy.

"There are different efforts happening statewide to work on "just transition" projects. There should be one entity who is specifically responsible for coordinating, monitoring, and reporting on these activities and the funding approved by the State for these purposes."

Related/Prior Legislation

AB 1634 (Boerner Horvath, 2022) declares that it is the Legislature's intent to enact subsequent legislation to create the Office of Just Transition in the Labor and Workforce Development Agency to help communities and workers transition to carbon neutrality jobs that build a robust clean economy in which all Californians prosper. The Assembly Rules Committee has not referred the bill.

AB 1966 (Muratsuchi, 2022) declares that it is the Legislature's intent to subsequently amend this measure to include provisions that would establish the California Equitable Just Transition Fund to assist fossil fuel-dependent workers with wage replacement, wage insurance, pension guarantees, health care, retraining, peer counseling, and relocation support for fossil fuel workers who face layoffs due to closure of operations. The Assembly Rules Committee has not referred the bill.

AB 680 (Burke, Chapter 746, Statutes of 2021) established the California Jobs Plan Act of 2021 which requires the CARB to work with the LWDA to update, by July 1, 2025, the funding guidelines for administering agencies to ensure that all applicants to grant programs funded by the Greenhouse Gas Reduction Fund meet fair and responsible employer standards and provide inclusive procurement policies.

AB 1453 (Muratuchi, 2021) would have established the Just Transition Advisory Commission and tasked it with developing and adopting a Just Transition Plan, containing recommendations to transition the state to a climate-resilient and low-carbon economy while protecting specified workers and communities. The Assembly Appropriations Committee held the bill in committee.

AB 398 (E. Garcia, Chapter 135, Statutes of 2017), among its many provisions, required CWDB to publish a report outlining recommendations on workforce development and training to help communities adapt to the economic and labor-market changes resulting from California's transition to a carbon neutral economy

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

According to the Senate Appropriations Committee, this bill would result in an annual cost pressure of $250,000 to LWDA to create and fund the new position.

SUPPORT: (Verified 8/23/22)

California Environmental Voters
Central Coast Energy Services
City of Riverside
Silicon San Francisco Peninsula Coast Energy Services
Valley Clean Energy

OPPOSITION: (Verified 8/23/22)

None received

ARGUMENTS IN SUPPORT: According to the California Environmental Voters, "One of the major hurdles of transitioning away from fossil fuels towards clean energy is the economic impact to workers and communities in those industries. Tasking a specific entity to plan, set goals, and conduct ongoing assessments of clean energy projects and programs will ensure an equitable transition to a carbon-neutral economy while bringing transparency and accountability to the process."

ASSEMBLY FLOOR: 63-11, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Daly, Davies, Flora, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mathis, Mayes, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Megan Dahle, Fong, Gallagher, Kiley, Lackey, Patterson, Seyarto, Smith, Voepel, Waldron
NO VOTE RECORDED: Berman, McCarty, O'Donnell, Villapudua

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
8/23/22 13:23:10

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

SENATE RULES COMMITTEE AB 2206
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2206
Author: Lee (D)
Amended: 8/22/22 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 11-3, 6/14/22
AYES: Gonzalez, Allen, Becker, Cortese, Dodd, Limón, McGuire, Min, Newman, Skinner, Wieckowski
NOES: Bates, Melendez, Wilk
NO VOTE RECORDED: Archuleta, Dahle, Rubio

SENATE JUDICIARY COMMITTEE: 9-1, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, McGuire, Stern, Wieckowski, Wiener
NOES: Jones
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 47-15, 5/9/22 - See last page for vote

SUBJECT: Nonattainment basins: employee parking: parking cash-out program

SOURCE: Author

DIGEST: This bill requires commercial landlords that are currently required to offer a parking cash-out program, to provide any of their tenants who are large employers with information about the cost of any parking provided as part of the lease.

Senate Floor Amendments of 8/22/22 require that the California Air Resources Board annually adjust the value of the parking cash-out program by the California Consumer Price Index and recast the bill provisions for clarity.

ANALYSIS:

Existing law:

1) Defines a "parking cash-out program" as an employer-funded program under which an employer offers to provide a cash allowance to an employee which is equivalent to the parking subsidy that the employer would otherwise pay to provide the employee with a parking space.

2) Defines a "nonattainment air basin" as an air basin that does not meet specified state ambient air quality standards.

3) Defines "parking subsidy" as the difference between the out-of-pocket amount paid by an employer on a regular basis in order to secure the availability of an employee parking space not owned by the employer and the price, if any, charged to an employee for use of that space.

4) Requires an employer of 50 or more people who is located in a nonattainment air basin and who provides a parking subsidy to its employees to offer those employees a parking cash-out program.

5) Exempts from the parking cash-out program any employer whose lease does not permit the employer to reduce, without penalty, the number of parking spaces subject to the lease.

6) Authorizes the California Air Resources Board (CARB) to impose specified civil penalties on an employer for failure to provide a parking cash-out program when required to do so.

7) Authorizes a city, county, or air district to adopt, by ordinance or resolution, a penalty or other mechanism to ensure that employers within its jurisdiction are compliant with the parking cash-out law, so long as specified mechanism for ensuring due process are included.

8) States that it is the intent of the Legislature that cash-out requirements apply only to an employer that can reduce the number of paid parking spaces it maintains and instead provide its employees with the cash-out option.

This bill:

1) Revises the parking cash-out program requirements on employers of 50 or more employees in nonattainment air basins by establishing a formula for the amount

of the cash-out benefit and requiring that the California Air Resources Board annually adjust the subsidy for inflation based on the change to the California Consumer Price Index.

2) Specifies that the formula for the cash-out benefit be the difference, if any, between the amount the employer charges employees for a parking space and the market rate for a parking space, which for purposes of this formula is capped at $350 per month.

3) Specifies if the market rate for a parking space cannot be determined than it shall be deemed to be the greater of $50 per month or the monthly price of the lowest priced transit serving with one-quarter mile of the employer.

4) Requires that if an employee receives a parking subsidy, the employer shall maintain a record of communication with the employee that they have the right to receive the cash equivalent of the parking subsidy (e.g. the cash-out option).

Comments

1) *Purpose*. According to the author, “The parking cash-out program was approved by this very Legislature three decades ago and is still not being implemented properly, which has detrimental environmental impacts. One reason that parking cash-out is not being implemented is due to the difficult nature of calculating the value of employee parking when it is included with the total cost of office rental space. Many owners of commercial real estate “bundle” the cost of parking with the cost of office space into a single lease price. This practice makes it difficult for employers to separate the cost of parking spaces associated with the commercial space that is being leased. Without that information, employers are unable to offer employees cash in lieu of parking subsidies. AB 2206 simply helps facilitate compliance with existing law by requiring parking owners to provide employers subject to parking cash-out with unbundled parking costs."

2) *Parking cash-out programs*. Existing law requires certain employers who provide subsidized parking for their employees to offer a cash allowance in lieu of a parking space. The intent is to reduce vehicle miles traveled (VMTs) and reduce emissions by offering employees the option of "cashing out" their subsidized parking space and incentivizing them to get to work using a more active form of travel or carpooling. However, a limiting factor in the law's reach is the criteria that parking must be leased separately from the building.

This condition exempts the majority of businesses from the parking cash-out requirement, reducing the law's potential impact. If the employer's savings on leasing fewer spots cannot be calculated and deducted from the lease, the employer is not required to comply with the parking cash-out law. This creates a bundling problem, the problem of bundled commercial real estate leases, which makes it difficult to calculate the cost of parking spaces and therefore the parking cash-out benefit for eligible employees.

This bill attempts to resolve the bundling issue by providing employers with greater clarity on how to calculate the value of the parking cash-out option. Specifically, this bill provides a formula for determining the value of the cash-out option based on market prices, as defined, and sets a ceiling of $350. If a market price cannot be determined than the market price shall be deemed to be the greater of $50 or the monthly cost of the lowest cost transit providing service nearby. The value of the parking cash-out is therefore the difference between the market price and the price the employer charges for parking.

It should be noted that the exemption for employers whose lease doesn't allow for a reduction of parking spaces remains.

3) *Opposition Removed*. Recent amendments taken in the Senate Judiciary Committee have removed the opposition to the bill.

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

SUPPORT: (Verified 8/23/22)

Bay Area Air Quality Management District
City of Santa Monica
Natural Resources Defense Council
Seamless Bay Area
Sierra Club
SPUR
Transbay Coalition

OPPOSITION: (Verified 8/23/22)

None received

ASSEMBLY FLOOR: 47-15, 5/9/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Mike Fong, Friedman,

Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Mullin, Muratsuchi, Nazarian, O'Donnell, Quirk, Ramos, Reyes, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Stone, Ting, Villapudua, Akilah Weber, Wicks, Wilson, Wood, Rendon

NOES: Bigelow, Choi, Megan Dahle, Davies, Fong, Gallagher, Kiley, Mathis, Mayes, Nguyen, Patterson, Seyarto, Smith, Voepel, Waldron

NO VOTE RECORDED: Boerner Horvath, Chen, Cooper, Cunningham, Daly, Flora, Gray, Grayson, Lackey, Medina, Petrie-Norris, Quirk-Silva, Luz Rivas, Salas, Valladares, Ward

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8/23/22 15:09:15

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

SENATE RULES COMMITTEE AB 2210
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2210
Author: Quirk (D), et al.
Amended: 8/22/22 in Senate
Vote: 27

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 9-3, 6/20/22
AYES: Roth, Becker, Dodd, Eggman, Leyva, Min, Newman, Ochoa Bogh, Pan
NOES: Melendez, Bates, Hurtado
NO VOTE RECORDED: Archuleta, Jones

SENATE GOVERNMENTAL ORG. COMMITTEE: 9-1, 6/28/22
AYES: Dodd, Nielsen, Allen, Archuleta, Becker, Bradford, Hueso, Kamlager, Wilk
NOES: Melendez
NO VOTE RECORDED: Borgeas, Glazer, Jones, Portantino, Rubio

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 59-13, 5/26/22 - See last page for vote

SUBJECT: Cannabis: state temporary event licenses: venues licensed by the Department of Alcoholic Beverage Control: unsold inventory

SOURCE: Author

DIGEST: This bill prohibits the Department of Cannabis Control (DCC) from denying an application for a state temporary event license solely on the basis that there is a license issued pursuant to the Alcoholic Beverage Control Act (ABC Act) for the proposed premises of the event.

Senate Floor Amendments of 8/22/22 update code section cross-references and resolve chaptering conflicts with SB 1186 (Weiner).

ANALYSIS:

Existing law:

1) Enacts the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) to establish a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of both medicinal cannabis and cannabis products, and adult-use cannabis and cannabis products for adults 21 years of age and over. (Business and Professions Code (BPC) § 26000, et seq.)

2) Expresses that state cannabis laws shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate cannabis businesses. (BPC § 26200(a))

3) Prohibits cannabis licensees from selling alcoholic beverages or tobacco products on their premises. (BPC § 26054)

4) Authorizes the DCC to issue a state temporary event license to a licensee authorizing onsite cannabis sales to, and consumption by, persons 21 years of age or older at a county fair event, district agricultural association event, or at another venue expressly approved by a local jurisdiction for the purpose of holding temporary events of this nature, provided that the activities comply with the following:

    a) Access to the area where cannabis consumption is allowed is restricted to persons 21 years of age or older, cannabis consumption is not visible from any public place or nonage-restricted area, and the sale or consumption of alcohol or tobacco is not allowed on the premises.

    b) All participants who are engaged in the onsite retail sale of cannabis or cannabis products at the event are licensed to engage in that activity.

    c) The activities are otherwise consistent with regulations promulgated and adopted by the DCC governing state temporary event licenses.

    d) A state temporary event license shall only be issued in local jurisdictions that authorize such events.

    e) A licensee who submits an application for a state temporary event license shall, 60 days before the event, provide to the DCC a list of all licensees

that will be providing onsite sales of cannabis or cannabis products at the event. (BPC § 26200(e))

5) Provides that the ABC Act, which is administered by ABC, regulates the application, issuance, and suspension of alcoholic beverage licenses. (BPC §§ 23000 et seq.)

6) Prohibits an alcoholic beverage licensee from selling, offering, or providing cannabis or cannabis products at its licensed premises. (BPC § 25621.5)

7) Prohibits a cannabis licensee from selling, offering, or providing a cannabis product that is an alcoholic beverage, as specified. (BPC § 26070.2)

This bill:

1) Prohibits the DCC from denying an application for a state temporary event license solely on the basis that there is a license issued pursuant to the ABC Act for the proposed premises of the event.

2) Provides that all on- and-off sale privileges of alcoholic beverages at the venue shall be suspended the day of the DCC licensed event and shall not resume until 6 a.m. on the day after the event has ended.

3) Provides alcohol consumption on the venue premises shall be strictly prohibited the day of the event and shall not resume until 6 a.m. on the day after the event has ended.

4) Allows a state temporary event licensee, upon completion or cessation of the temporary event, to reconcile unsold inventory of cannabis or cannabis products and return it to the licensee's retail premises, as specified.

5) States all unsold inventory of cannabis or cannabis products from the temporary event shall be noted in track and trace prior to transport and be in its original packaging, as defined.

6) States that the ABC shall not take any disciplinary action against a person licensed pursuant to the Act on the basis of a state temporary event license issued by the DCC to a retail licensee that utilizes the same premises as the person licensed pursuant to the ABC Act.

7) Addresses chaptering out issues with SB 1186 (Weiner) by adding double-jointing language.

Background

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

In 2015, the Legislature passed the Medical Cannabis Regulation and Safety Act (MCRSA). For the first time, MCRSA established a comprehensive, statewide licensing and regulatory framework for the cultivation, manufacture, transportation, testing, distribution, and sale of medicinal cannabis.

Shortly following the passage of MCRSA in November 2016, California voters passed Proposition 64, the "Control, Regulate and Tax Adult Use of Marijuana Act" (Proposition 64), which legalized adult-use cannabis. Less than a year later in June 2017, the California State Legislature passed a budget trailer bill, SB 94 (Senate Committee on Budget and Fiscal Review, Chapter 27, Statutes of 2017), that integrated MCRSA with Prop 64 to create MAUCRSA, the current regulatory structure for both medicinal and adult-use cannabis. Beginning in 2018, Proposition 64 permitted adults 21 years of age or older can legally grow, possess, and use cannabis for nonmedical purposes, with certain restrictions.

Cannabis Events. MAUCRSA allowed for issuance of licenses for state temporary cannabis events at a fair grounds or district agricultural grounds. These licenses allowed for retail or consumption of cannabis at the event, provided that the event is approved by the relevant local jurisdiction. One of the issues behind the drafting of this legislation was that fairgrounds was not always convenient or preferable to hold temporary cannabis events. For example, in the case of Alameda County, the fairgrounds are in Pleasanton, not in the population center of Oakland. As a remedy to these challenges, AB 2020 (Quirk, Chapter 749, Statutes of 2018) was introduced. The bill authorized the Bureau of Cannabis Control, now known as DCC, to issue a temporary state license to provide on-site sales and consumption of cannabis at a temporary event located at a fairground, district agricultural association event, or at another venue expressly approved by a local jurisdiction.

In the same legislative year, AB 2641 (Wood, 2018) attempted to allowed temporary cannabis retailer licenses for cannabis manufacturers and cultivators to sell their own products at temporary cannabis events.

Today, only cannabis event organizers licensed by the DCC are authorized to hold in-person temporary cannabis events. They must be relicensed on an annual basis and are responsible for applying for a temporary cannabis event license for each individual event, maintaining the event space, hiring security, posting required signage, and providing the DCC with a list of participants and a diagram showing the layout of the event and where participants will be set up. Only licensed retailers can sell cannabis goods during an event and must abide by the following:

- The sale and consumption of cannabis must be on-site;
- Use existing and DCC approved packaging;
- Sell and admit only persons over 21 years of age;
- Not provide any free samples;
- Record sales in the Track and Trace system;
- Allow only licensed distributors to transport cannabis goods to and from an event;
- Not allow cannabis consumption to be visible from any public place or nonage-restricted area; and
- Prohibit the sale or consumption of alcohol or tobacco on the premises.

This bill is consistent with the existing framework and intent of temporary event licenses while expanding existing venues to allow for more events. This bill maintains current local approval requirements.

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

SUPPORT: (Verified 8/19/22)

California Cannabis Industry Association
Cal NORML

OPPOSITION: (Verified 8/19/22)

None received

ARGUMENTS IN SUPPORT: According to the California Cannabis Industry Association, "AB 2210 follows AB 2020 (Quirk, Chapter 749, Statutes of 2018)

which authorized the then Bureau of Cannabis Control (BCC) to issue temporary cannabis sales and consumption licenses when permitted by the appropriate local government. This hard-fought legislation was carefully negotiated with local governments, law enforcement and public health advocates to address concerns. To that end, AB 2020 included provisions to safeguard against the consumption of cannabis, alcohol and tobacco on the same premises and other important public safety protocols aimed deterring youth access and protecting public health and safety.

"What was not contemplated was how the ABC would interpret the bill's provisions - specifically that any venue with an existing ABC license is not allowed to be used for a temporary cannabis event - even when cannabis and alcohol is sold and consumed in separate and distinct areas within the same venue. This has had the effect of severely limiting where temporary events can occur, as most event venues maintain an active ABC license."

Cal NORML writes, "AB 2210 clarifies that temporary events at ABC licensed premises are permissible provided that alcohol is not served at the same time. This is consistent with the intent of Prop 64 and advances the intent of AB 2020 (Chapter 749, Statutes of 2018) authorizing local governments to grant temporary cannabis event permits. AB 2210 also clarifies that retailers at special events can return their unsold product to inventory, rather than be obliged to wastefully destroy it."

ASSEMBLY FLOOR: 59-13, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Cooley, Cooper, Cunningham, Daly, Flora, Mike Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Stone, Ting, Valladares, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Choi, Megan Dahle, Davies, Fong, Kiley, Nguyen, Patterson, Salas, Seyarto, Smith, Voepel, Waldron

NO VOTE RECORDED: Berman, Boerner Horvath, Irwin, Maienschein, O'Donnell, Villapudua

Prepared by: Alexandria Smith Davis / B., P. & E.D. / 8/23/22 15:09:14

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

SENATE RULES COMMITTEE AB 2221
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2221
Author: Quirk-Silva (D)
Amended: 8/24/22 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 8-0, 6/13/22
AYES: Wiener, Caballero, Cortese, McGuire, Ochoa Bogh, Skinner, Umberg, Wieckowski
NO VOTE RECORDED: Bates

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/29/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 74-0, 5/25/22 - See last page for vote

SUBJECT: Accessory dwelling units

SOURCE: California YIMBY

DIGEST: This bill clarifies and expands requirements for approval of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs).

Senate Floor Amendments of 8/24/22 address chaptering issues with other ADU bills (SB 897 and AB 916).

ANALYSIS:

Existing law:

1) Requires a local agency to ministerially approve, within 60 days, in an area zoned for residential or mixed-use, an application for a building permit to create an ADU and a JADU as follows:

a) The ADU or JADU that is within a proposed or existing structure, or the same footprint as the existing structure, provided the space has exterior access from the proposed or existing structure and the side and rear setbacks are sufficient for fire and safety.

b) One detached ADU that is within a proposed or existing structure or the same footprint as the existing structure, along with one JADU, that may be subject to a size limit of 800 square feet, a height limit of 16 feet, and side and rear yard setbacks of four feet.

2) Requires a local agency to ministerially approve, within 60 days, on a lot with a multifamily dwelling:

a) Multiple ADUs within the existing structures that are not used as livable space, if each unit complies with state building standards for dwellings.

b) Two detached ADUs that are subject to a height limit of 16 feet and rear and side yard setbacks of four feet.

This bill:

1) Requires a permitting agency to specifically "approve or deny" an application to serve an ADU or a JADU within the same timeframes.

2) Specifies the requirement for a permitting agency to act on an application means either to return the approved permit application or to return in writing, within the prescribed time period, a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied.

3) Defines "permitting agency" to mean any entity that is involved in the review of an ADU or JADU permit and for which there is no substitute, including, but not limited to, applicable planning departments, building departments, utilities, and special districts.

4) Adds front setbacks to the list of local development standards that local governments cannot impose if they would preclude construction of an attached or detached ADU.

5) Specifies, in ministerially approving an application for a building permit to create one detached, new construction ADU on a lot with a single-family dwelling in a zone that allows residential use, a local agency must not impose

any objective planning standards that conflict with the ability for the ADU to meet the standards listed in 3) above.

6) Clarifies the following:

   a) An ADU can be attached to or located in a detached garage.

   b) Local ADU ordinances do not supersede state ADU laws.

Background

According to the Department of Housing and Community Development (HCD), "ADUs are an innovative, affordable, effective option for adding much needed housing in California." ADUs, also known as accessory apartments, accessory dwellings, mother-in-law units, or granny flats, are additional living spaces on single-family or multifamily lots that have a separate kitchen, bathroom, and exterior access independent of the primary residence. These spaces can either be attached to, or detached from, the primary residence. Local ADU ordinances must meet specified parameters outlined in existing state law.

Local governments may also adopt ordinances for JADUs, which are no more than 500 square feet and are bedrooms in a single-family home that have an entrance into the unit from the main home and an entrance to the outside from the JADU. The JADU must have cooking facilities, including a sink and stove, but is not required to have a bathroom.

The cost of constructing an ADU, however, can still be high. According to the State Treasurer's Office, many lower income homeowners, as well as homeowners who have not yet built up significant equity in their homes, are struggling to obtain loans to construct ADUs.

Comments

1) *Housing Crisis*. California's housing crisis is a half century in the making. Decades of underproduction underscored by exclusionary policies have left housing supply far behind need and costs soaring. California currently has 13 of the 14 least affordable metropolitan areas for homeownership in the nation; it also has the second highest rate of renter households paying more than 30% of their income for housing at 52%. According to the 2022 Statewide Housing Plan, published by HCD, California must plan for more than 2.5 million homes over the next eight-year cycle, and no less than one million of those homes must meet the needs of lower-income households. This represents more than double

the housing planned for in the last eight-year cycle. The lack of housing supply is the primary factor underlying California's housing crisis.

During the 1990s, California averaged only 110,000 new housing units per year. During the early 2000s, production increased significantly, reaching a peak of 212,000 units in 2004 before plummeting to historic lows during the recession. Unfortunately, the downward trend continues; the fact is that California has under-produced housing every single year since 1989.

As a result, millions of Californians, who are disproportionately lower income and people of color, must make hard decisions about paying for housing at the expense of food, health care, child care, and transportation—one in three households in the state doesn't earn enough money to meet their basic needs.

2) *Encouraging ADU construction.* According to a UC Berkeley study, *Yes in My Backyard: Mobilizing the Market for Secondary Units,* second units are a means to accommodate future growth and encourage infill development in developed neighborhoods. Despite state law requirements for each city in the state to have a ministerial process for approving second units, local regulations often impede development. In response, several bills, including SB 1069 (Wieckowski, 2016), SB 13 (Wieckowski, 2019) and AB 68 (Ting, 2019), have relaxed multiple requirements for the construction and permitting of ADUs and JADUs.

   According to a 2020 UCLA Working Paper, "state ADU and JADU legislation has created the market-feasible potential for nearly 1.5 million new units." Since 2013, the number of permitted ADUs increased from 799 to 12,813 in 2020, for a total of almost 44,000 ADUs permitted statewide. With localities across the state facing large regional housing needs allocations for the sixth housing element cycle, ADUs and JADUs represent a key tool in the housing production toolbox.

3) *Challenges in Implementing ADU Law.* It has been slightly more than five years since the state made ADUs and JADUs permitted by right. In that time, a substantial amount of knowledge and expertise has been developed by invested parties, such as ADU developers, financiers, and regulators such as local planning and permitting staff, special districts, and utilities, and HCD. Not surprisingly, these parties have been able to identify areas of the law that could benefit from clarification or where existing law does not facilitate the timely permitting of ADUs and JADUs envisioned by the enabling legislation.

   This bill provides multiple measures to address some of the identified tension points. First, it specifies what it means for a permitting agency to "act" on an

application. Currently, the law says that a permitting agency must act within 60 days, but does not specify what it means to act. This bill clarifies that to "act," a permitting agency must approve the permit or return a full set of comments, within the specified time period, in writing with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant. This change will help reduce the time spent by all sides reviewing and revising applications.

Next, this bill would define "permitting agency" to mean any entity that is involved in the review of an ADU permit and for which there is no substitute, including, but not limited to, applicable planning departments, building departments, utilities, and special districts. In practice, the concept of "permitting agency" has centered on the local agency that receives the ADU building permit, making the local agency responsible for the existing timelines in the law.

However, a building permit for an ADU or JADU often needs approval from additional bodies, including special districts and utilities that have separate governance structures and operations from the local agency. These entities are often not held to the same 60-day timeline as local agencies, which can result in delays for ADU and JADU projects and present a challenge for local governments to manage entities beyond their control. By including special districts and utilities in the definition of permitting agency, this bill would require that these entities meet the timelines specified in the bill.

Finally, this bill clarifies the ways in which a local government can and cannot use objective standards to regulate ADUs. Specifically, the bill says that local governments cannot apply front setback requirements if they would preclude construction of an attached or detached ADU.

4) *Another ADU bill?* Earlier this year, the Senate Housing Committee heard SB 897 (Wieckowski), another bill that makes changes to the law governing ADUs. The primary overlap between this bill and SB 897 are in the provisions relating objective standards, an act by an agency, and allowable ADU footprint. A third bill making changes to ADU law, AB 916 (Salas), is also making its way through the legislature.

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

SUPPORT: (Verified 8/23/22)

California YIMBY (source)
California Association of Realtors
Councilmember Zach Hilton, City of Gilroy
People for Housing - Orange County
Southern California Rental Housing Association
Urban Environmentalists
YIMBY Action

OPPOSITION: (Verified 8/23/22)

City of Pleasanton

ARGUMENTS IN SUPPORT: According to the author, "Before the COVID 19 pandemic, our state was facing the nation's worst housing crisis and in the last two years we have seen several families become housing insecure. Some Californians have had their homes foreclosed on, while others are at a greater risk of homelessness. Homeownership rates in California are the second lowest in the nation. Last year, California broke the $800,000 median home price mark for the first time in history. Accessory dwelling units (ADUs) can play an important role in solving California's complex housing crisis. AB 2221 would make it easier to build ADUs by clarifying elements of existing law."

ARGUMENTS IN OPPOSITION: The City of Pleasanton submitted the only opposition for AB 2221, in which they express concern about the expansion of ADU law, parking, and local control issues.

ASSEMBLY FLOOR: 74-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Berman, Boerner Horvath, Nguyen, O'Donnell

Prepared by: Mehgie Tabar / HOUSING / (916) 651-4124
8/26/22 15:41:26

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

SENATE RULES COMMITTEE AB 2223
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2223
Author: Wicks (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-2, 6/14/22
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, Stern, Wieckowski, Wiener
NOES: Borgeas, Jones

SENATE HEALTH COMMITTEE: 7-2, 6/30/22
AYES: Pan, Eggman, Leyva, Limón, Roth, Rubio, Wiener
NOES: Melendez, Grove
NO VOTE RECORDED: Gonzalez, Hurtado

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 48-21, 5/26/22 - See last page for vote

SUBJECT: Reproductive health

SOURCE: ACLU California Action
Black Women for Wellness
California Latinas for Reproductive Justice
If/When/How: Lawyering for Reproductive Justice
NARAL Pro-Choice California
Planned Parenthood Affiliates of California

DIGEST: This bill prohibits a person from being subject to civil or criminal liability, or otherwise deprived of their rights, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome or based solely on their actions to aid or assist a pregnant person who is exercising

their reproductive rights. This bill authorizes a party aggrieved by a violation of the Reproductive Privacy Act (Act) to bring a civil action against an offending state actor, as provided, and also authorizes a person so aggrieved to bring a civil action pursuant to the Tom Bane Civil Rights Act (Bane Act). This bill deletes the requirement that a coroner hold inquests for deaths related to or following known or suspected self-induced or criminal abortion and the requirement that an unattended fetal death be handled as a death without medical attendance.

Senate Floor Amendments of 8/25/22 add chaptering out amendments with AB 2091 (Mia Bonta, 2022) and co-authors.

ANALYSIS:

Existing law:

1) Holds that the state constitution's express right to privacy extends to an individual's decision about whether or not to have an abortion. *(People v. Belous* (1969) 71 Cal.2d 954.*)*

2) Establishes the Act and provides that the Legislature finds and declares that every individual possesses a fundamental right to privacy with respect to personal reproductive decisions. (Health & Saf. Code § 123460 et. seq., § 123462.)

3) Provides that the state may not deny or interfere with a person's right to choose or obtain an abortion prior to viability of the fetus or when the abortion is necessary to protect the life or health of the person. (Health & Safe. Code § 123466.)

4) Provides that it shall be the duty of the coroner to inquire into and determine the circumstances, manner, and cause of all specified types of death, including deaths related to or following known or suspected self-induced or criminal abortion. Inquiries pursuant to this provision do not include those investigative functions usually performed by other law enforcement agencies. (Gov. Code § 27491.)

5) Requires the coroner, within three days after examination of the fetus, to state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, the conditions, if any, that gave rise to these causes, and other medical and health section data as may be required on the certificate, and shall sign the certificate in attest to these facts. (Health & Saf. Code § 103005.)

6) Provides that public employees are not liable for injury caused by their instituting or prosecuting any judicial or administrative proceeding within the scope of their employment, even if they act maliciously and without probable cause. (Gov. Code § 821.6.) Provides that public employees are not liable for their acts or omissions, exercising due care, in the execution or enforcement of any law, but are liable for false arrest or false imprisonment. (Gov. Code § 820.4.)

7) Allows any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States or of this state that have been interfered with, or attempted to be interfered with by threat, intimidation, or coercion, to institute and prosecute in their own name and on their own behalf a civil action for damages and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured. (Civ. Code § 52.1(c).)

This bill:

1) Provides a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights under the Act, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death due to causes that occurred in utero. Specifies that a person who aids or assists a pregnant person in exercising their rights under the Act shall not be subject to civil or criminal liability or penalty, or otherwise be deprived of their rights, based solely on their actions to aid or assist a pregnant person in exercising their rights under this article with the pregnant person's voluntary consent.

2) Authorizes a party aggrieved by conduct or regulation in violation of the Act to bring a civil action against an offending state actor in a state superior court for actual damages and a civil penalty a civil penalty of $25,000.

    a) Authorizes preventive relief, including permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to ensure the full enjoyment of the rights described in this article.

    b) Provides that, upon a motion, a court shall award reasonable attorney's fees and costs, including expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in such an action.

3) Authorizes a party whose reproductive rights are protected and whose reproductive rights are interfered with by conduct or by a statute, ordinance, or other state or local rule, regulation, or enactment in violation of those protections to also bring a civil action pursuant to the Bane Act.

4) Includes, specifically, the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care under legislative findings and declarations that every individual possesses a fundamental right of privacy with respect to reproductive decisions.

5) Deletes the existing duty of the coroner to inquire into and determine the circumstances, manner, and cause of all deaths related to or following known or suspected self-induced or criminal abortion. Clarifies that existing law requiring a coroner to examine a fetus and state on the certificate of fetal death certain things may not be used to establish, bring, or support a criminal prosecution or civil cause of action seeking damages against any person, as provided. Repeals a provision of law requiring all other fetal deaths required to be registered under provisions of law related to registering fetal deaths to be handled as deaths without medical attendance.

6) Clarifies that an abortion is unauthorized if it meets all of the criteria specified in existing law and it is performed by someone other than the pregnant person.

7) Changes gendered terminology in various code sections and eliminates the phrase "crime against nature" from existing code.

Comments

Even though existing state law does not criminalize a person's own actions that might result in a pregnancy loss, two women were recently charged and imprisoned for their pregnancy losses in California. In response to this, the bill reaffirms and strengthens protections in existing state law that prohibit civil or criminal liability for the acts of a pregnant person in relation to their pregnancy outcomes. Additionally, On June 24, 2022, the U.S. Supreme Court published its official opinion in *Dobbs v. Jackson Women's Health* and voted 6-3 to overturn the holding in *Roe,* overturning almost 50 years of precedent that the right to an abortion was protected under the U.S. Constitution. Texas recently enacted a law that essentially places a near-categorical ban on abortions beginning six weeks after a person's last menstrual period. This law has far-reaching implications, not solely for a person obtaining an abortion or performing abortion services, as it

prohibits anyone from "aiding and abetting" a person in obtaining an abortion. (Tex. Health & Safety Code § 171.208.)

In response to all of these issues, this bill seeks to ensure that no one in the State of California is investigated, prosecuted, or incarcerated from ending a pregnancy or experiencing a pregnancy loss and that their right to reproductive freedom is protected. This bill authorizes a civil action against an offending state actor in state superior court for violating rights protected under the Act, with the goal of allowing persons who have had their rights violated by a state actor to seek some accountability. Additionally, this bill specifically includes the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care within the legislative findings and declarations of the Act that every individual possesses a fundamental right of privacy with respect to reproductive decisions. This bill also restates in the Act that a person shall not be subject to civil or criminal liability or penalty, or be otherwise deprived of their rights under that act, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death due to causes that occurred in utero.

This bill specifically authorizes a person to bring an action under the Bane Act for violations of the Act. A person could bring such an action already; however, the bill makes several changes to the existing provisions of the Bane Act to address the unique circumstances the bill is trying to address. First, this bill specifies that, for purposes of establishing liability, the criminal investigation, arrest, or prosecution, or threat of investigation, arrest, or prosecution, of a person with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, constitutes "threat, intimidation, or coercion" pursuant to the Bane Act. Second, this bill provides that notwithstanding the existing immunities in Section 821.6 of the Government Code, a civil action pursuant to the Bane Act may be based upon instituting or prosecuting any judicial or administrative proceeding in violation of the Act.

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

According to the Senate Appropriations Committee

- The Department of Justice reports costs of $27,000 in Fiscal Year (FY) 2022-23, $57,000 in FY 2023-24 and FY 2024-24, and $27,000 in FY 2025-26 (General Fund).

- *Judicial Branch*: Unknown, potentially significant cost pressures due to increased court workload to adjudicate civil actions that are filed as a result of this bill (Special Fund – Trial Court Trust Fund, General Fund).

SUPPORT: (Verified 8/25/22)

ACLU California Action (co-source)
Black Women for Wellness (co-source)
California Latinas for Reproductive Justice (co-source)
If/When/How: Lawyering for Reproductive Justice (co-source)
NARAL Pro-Choice California (co-source)
Planned Parenthood Affiliates of California (co-source)
Attorney General Rob Bonta
Lieutenant Governor Eleni Kounalakis
State Controller Betty T. Yee
Access Reproductive Justice
American Association of University Women
American Atheists
American College of Obstetricians and Gynecologists District IX
Asian Americans Advancing Justice – California
California Coalition for Women Prisoners
California for Safety and Justice
California Nurse Midwives Association
California Nurses Association
California Women's Law Center
Californians United for a Responsible Budget
Citizens for Choice
City of Los Angeles
City of Oakland
Courage California
Culver City Democratic Club
Democratic Party of Contra Costa County
Disability Rights California
Ella Baker Center for Human Rights
Fund Her
Initiate Justice
League of Women Voters of California
National Center for Youth Law
National Health Law Program
Nevada County Citizens for Choice
Physicians for Reproductive Health

Public Health Advocates
San Francisco City Attorney's Office
Smart Justice California
Stanford Health Care
Stronger Women United
Survived & Punished
Tides Advocacy
University of California
URGE: Unite for Reproductive & Gender Equity
Voices for Progress Education Fund
Western Center on Law & Poverty
Women's Health Specialists
Women's Foundation California

OPPOSITION: (Verified 8/25/22)

American Center for Law and Justice
Americans United for Life
California Capitol Connection
California Family Council
California ProLife Council
Californians for Life
Calvary Chapel of Placerville
Capitol Resource Institute
Catholic Families 4 Freedom CA
Children's Health Defense, California Chapter
City of Fillmore
Concerned Women for America
Cure America Action, Inc.
Defending Constitutional Rights
Eagle Forum of California
Faith Baptist Church of Wheatland
Feather River Tea Party Patriots
Frederick Douglass Foundation of California
Freedom of Religion – United Solution
Greater Bakersfield Republican Assembly
Liberty Baptist Church of Norwalk, CA
Life Legal Defense Foundation
NorthCreek Church
Pacific Justice Institute
Real Impact

Republican Club of Laguna Woods
Right to Life League
Right to Life of Central California
Right to Life of Kern County
Siskiyou Conservative Republicans
The American Council for Evangelicals
The Center for Bio-Ethical Reform
The National Center for Law & Policy
The Salt and Light Council
The Turning Point Church
Traditional Values for Next Generations
11 Individuals

ARGUMENTS IN SUPPORT: The author writes:

> A critical part of realizing reproductive justice for people in California is clarifying that nobody will be investigated, prosecuted, or incarcerated for their actual, potential, or alleged pregnancy outcomes. Pregnancy criminalization is a widespread, national problem, and California is not exempt from this issue. Despite clear law that ending or losing pregnancy is not a crime, prosecutors in this state have charged people for homicide offenses for pregnancy loss.
>
> AB 2223 protects reproductive freedom and decisionmaking by ensuring that no one in the State of California will be prosecuted for ending a pregnancy or experiencing a pregnancy loss. As other states that are hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion, California must reinforce existing state protections against the criminalization and prosecution of abortion and pregnancy outcomes.

The sponsors of this bill—ACLU California Action, Black Women for Wellness, California Latinas for Reproductive Justice, If/When/How: Lawyering for Reproductive Justice, NARAL Pro-Choice California, and Planned Parenthood Affiliates of California—write in support:

> AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from investigation, prosecution, and incarceration based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

> It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems. […]

ARGUMENTS IN OPPOSITION: The Right to Life League writes in opposition:

> In its attempt to protect women from prosecution for abortion, AB 2223's overbroad language creates a host of unforeseen legal ramifications. The bill potentially de-regulates abortion and overrides existing medical protections for women by creating a class of cooperating individuals unaccountable to state licensing agencies or regulations.
>
> AB 2223 goes much further than simply shielding pregnant people from prosecution; it provides total civil and criminal immunity for the actions (whether legal or illegal) of anyone who aids and assists the pregnant person from civil and criminal liability - so long as the pregnant person consents.
>
> AB 2223 will chill proper investigations of abortion cooperators (not just the pregnant person) by granting penalties, including attorney's fees against anyone who even threatens an investigation including law enforcement, medical professionals and mandated reporters. (emphasis omitted)

ASSEMBLY FLOOR: 48-21, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooper, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cooley, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Mayes, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron

NO VOTE RECORDED: Berman, Daly, Gray, Grayson, McCarty, O'Donnell, Ramos, Salas, Villapudua

Prepared by: Amanda Mattson / JUD. / (916) 651-4113
8/26/22 15:41:26

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

SENATE RULES COMMITTEE AB 2230
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2230
Author: Gipson (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 5-0, 6/13/22
AYES: Hurtado, Jones, Cortese, Kamlager, Pan

SENATE APPROPRIATIONS COMMITTEE: 5-1, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Jones
NO VOTE RECORDED: Bates

ASSEMBLY FLOOR: 57-13, 5/25/22 - See last page for vote

SUBJECT: CalWORKs: temporary shelter and permanent housing benefits

SOURCE: Coalition of California Welfare Rights Organizations
Western Center on Law and Poverty

DIGEST: This bill requires families receiving temporary shelter assistance through the CalWORKs Homeless Assistance (HA) program to receive 16 days of temporary shelter assistance in the form of a one-time payment, instead of receiving 16 days of temporary shelter assistance in the form of an initial payment of three days that can be extended in one-week increments.

Senate Floor Amendments of 8/25/22 delay the operative date to July 1, 2024, or on the date the California Department of Social Services notifies the Legislature that the Statewide Automated Welfare System can perform the necessary automation to implement this section, whichever is later; and incorporate changes to Section 11450 of the Welfare and Institutions Code proposed by SB1083 (Skinner) to resolve conflicts.

ANALYSIS:

Existing law:

1) Establishes the CalWORKs program to provide cash assistance and other social services for low-income families through the federal Temporary Assistance for Needy Families (TANF) program. (*WIC 11200 et seq.*)

2) Provides temporary shelter benefits for a homeless family that is eligible for CalWORKs aid. Makes the temporary shelter benefit $85 per day for families up to four members and $15 per day for each additional family member, up to $145. Allows county human services agencies to increase the daily amount available for temporary shelter as necessary to secure the additional bed space needed by the family. *(WIC 11450(f)(3)(A); WIC 11450(f)(4)(A)(i))*

3) Requires temporary shelter benefits to be available for an initial period of three days, which can be extended in increments of one week for a total of 16 days. Requires this extension of benefits to be based upon: searching for permanent housing, which must be documented on a housing search form; good cause; or other circumstances defined by the California Department of Social Services (CDSS). *(WIC 11450(f)(4)(A))*

4) Allows a county to waive the three-day limit and provide increments of more than one week for a family that becomes homeless as a direct and primary result of a state or federally declared disaster. *(WIC 11450(f)(4)(A)(iv))*

5) Provides, in the case of domestic abuse, for expanded HA benefits in the form of two 16-day periods of temporary shelter assistance within the applicant's lifetime. *(WIC 11450(f)(4)(I)(ii))*

This bill:

1) Requires a family receiving CalWORKs HA to receive temporary shelter benefits for the allowable 16 days in the form of a one-time payment.

2) Makes this change operative on July 1, 2024, or on the date CDSS notifies the Legislature that the Statewide Automated Welfare System (SAWS) can perform the necessary automation, whichever date is later.

3) Makes other technical and conforming changes.

Background

CalWORKs Homeless Assistance (HA). The CalWORKs HA program assists families in the CalWORKs program secure or maintain permanent housing and provides emergency shelter when a family is experiencing or at risk of homelessness. The program is an entitlement benefit available in all 58 counties. Assistance can be temporary or permanent. Temporary assistance provides a daily payment for families to secure housing for up to 16 days in a 12-month period. Permanent assistance provides a security deposit or up to two months of rent. In 2020-21, the program approved temporary assistance for 30,863 families and permanent assistance for 1,683 families.

Existing law requires an initial three days of temporary HA benefits to be granted to an eligible family on the same day of the family's application. During this three-day period, the family provides a sworn statement that they are homeless. After the county human services agency verifies that the family is homeless, the county extends the temporary HA benefits in increments of one week, not to exceed the maximum of 16 days of assistance. This extension of benefits is based on a documented search for housing, good cause, or other circumstances defined by CDSS. This bill removes the three-day waiting period and subsequent one-week incremental payments, and instead provides all 16 days of temporary HA benefits in a one-time payment. Applicants who are eligible for expanded HA because of domestic abuse can receive benefits for two 16-day periods for a total of 32 days; in this case, the family would receive a one-time payment for each 16-day period.

Comments

According to the author:

> While I commend the tremendous help that the CalWORKs Homeless Assistance (HA) Program has provided in getting countless families through tough situations, with still a rising homeless population, California is in need of strengthened solutions. The issue with this assistance is that it is currently fragmented, creating immense barriers for families experiencing homelessness, thus continuing the pervasive struggles that local governments face in helping those experiencing homelessness transition into a path toward stable housing. How it works: temporary assistance is issued for 3 days, then another 7 days and finally 6 days (a 16 day total). That is multiple times which a homeless family has to go down to a county welfare office, often waiting for hours, before they are issued their next 3/7/6 days worth of temporary assistance. A reduction in barriers toward benefits provided by these programs

will better serve the needs of families currently receiving benefits, and for those who still or may need them in the future.

Related/Prior Legislation

SB 1083 (Skinner, 2022) makes various changes to CalWORKs HA, including expanding the number of days eligible families may receive temporary shelter assistance and extending CalWORKs HA benefits for families that include a pregnant person. The bill is currently on the Assembly Floor.

SB 1065 (Hertzberg, Chapter 152, Statutes of 2020) made various changes to CalWORKs HA, including removing liquid resource limits, simplifying verification of homelessness, and expanding eligibility as a result of a state or federally declared disaster, among other changes.

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

According to the Senate Appropriations Committee:

- Unknown ongoing General Fund costs, likely millions of dollars, from changing the HA payment schedule; unknown one-time General Fund automation costs, likely hundreds of thousands of dollars.
- Cost to counties for administration would be potentially reimbursable by the state, subject to a determination by the Commission on State Mandates.

SUPPORT: (Verified 8/25/22)

Coalition of California Welfare Rights Organizations (co-source)
Western Center on Law and Poverty (co-source)
National Association of Social Workers, California Chapter

OPPOSITION: (Verified 8/25/22)

None received

ASSEMBLY FLOOR: 57-13, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Nazarian,

Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Choi, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Mathis, Seyarto, Smith, Voepel, Waldron
NO VOTE RECORDED: Berman, Chen, Lackey, Muratsuchi, Nguyen, O'Donnell, Patterson, Valladares

Prepared by: Elizabeth Schmitt / HUMAN S. / (916) 651-1524
8/26/22 15:41:27

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

SENATE RULES COMMITTEE AB 2232
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2232
Author: McCarty (D)
Amended: 6/28/22 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 4-1, 6/22/22
AYES: Leyva, Glazer, McGuire, Pan
NOES: Dahle
NO VOTE RECORDED: Ochoa Bogh, Cortese

SENATE APPROPRIATIONS COMMITTEE: 5-1, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Jones
NO VOTE RECORDED: Bates

ASSEMBLY FLOOR: 59-9, 5/25/22 - See last page for vote

SUBJECT: School facilities: heating, ventilation, and air conditioning systems

SOURCE: Author

DIGEST: This bill requires a school district, county office of education (COE), charter school, private school, the California Community Colleges (CCC), the California State University (CSU), and requests the University of California (UC), to ensure that facilities, including classrooms for students, have heating, ventilation, and air conditioning (HVAC) systems that meet minimum ventilation rate requirements, as specified, and to install filtration that achieves minimum efficiency reporting values (MERV) levels of 13 or higher. Requires the Division of the State Architect (DSA) to propose for adoption mandatory standards for carbon dioxide monitors in classrooms of a covered school and the UC.

ANALYSIS:

Existing law:

1) Defines "good repair" as a facility that is maintained in a manner that assures that it is clean, safe, and functional. Requires the school facility inspection and evaluation instrument and local evaluation instruments to include specified criteria, including the criterion that mechanical systems, including HVAC systems, are functional and unobstructed and appear to supply adequate amount of air to all classrooms, workspaces, and facilities.

2) Requires the State Allocation Board (SAB) to require school districts to make all necessary repairs, renewals, and replacements to ensure that a project funded by state bond funds is at all times maintained in good repair, working order, and condition. Requires a school district to establish a restricted account within the school district general fund for the purpose of providing moneys for ongoing and major maintenance of school buildings.

3) Requires the local control and accountability plan (LCAP) to include actions that address eight state priorities, including ensuring that school facilities are maintained in good repair.

4) Authorizes the Occupational Safety and Health Standards Board to adopt, amend or repeal occupational safety and health standards and orders.

This bill:

1) Establishes the following definitions:

   a) "Covered school" means a school district, a COE, a charter school, a private school, the CCCs, or the CSU;
   b) "HVAC" means heating, ventilation, and air conditioning; and
   c) "MERV" means minimum efficiency reporting values.

2) Requires a covered school to, and the UC is requested to, ensure that facilities, including, but not limited to, classrooms for students, have HVAC systems that meet the minimum ventilation rate requirements set forth in Table 120.1-A of Part 6 (commencing with Section 100.0) of Title 24 of the California Code of Regulations unless the existing HVAC system is not capable of safely and efficiently providing the minimum ventilation rate.

3) Requires that, if a school's existing HVAC system is not capable of safely and efficiently providing the minimum ventilation rate as proposed to be required, the covered school to, and the UC is requested to, ensure that its HVAC system meets the minimum ventilation rates in effect at the time the building permit for installation of that HVAC system was issued.

4) Requires a covered school to, and the UC is requested to, document the HVAC system's inability to meet the current ventilation standards in the annual HVAC inspection report required by Title 8 of the California Code of Regulations Section 5142, and make this information available to the public upon request.

5) Requires a covered school to, and the UC is requested to, install filtration that achieves MERV levels of 13 or higher where feasible with the existing HVAC system.

6) Requires, during the next triennial update of the California Building Standards Code (Title 24 of the California Code of Regulations), the DSA to research, develop, and propose for adoption mandatory standards for carbon dioxide monitors in classrooms of a covered school and the UC.

7) Specifies that this bill shall apply to the UC only to the extent that the Regents of the UC, by resolution, make it applicable.

Comments

1) *Need for the bill.* According to the author, "Poor air quality in classrooms is a pervasive problem that negatively impacts student health and learning. Despite laws requiring schools to maintain functional HVAC systems to supply adequate ventilation and safe indoor air quality, poor indoor air quality remains an extensive problem. Additionally, poor installment of HVAC systems substantially increase energy costs and fail to maintain good indoor air quality. AB 2232 will require comprehensive HVAC inspections and air monitors in classrooms to ensure the wellbeing and learning of California students are protected from the harmful effects of poor air quality."

2) *HVAC requirements.* Various sections of the law require school facilities to be in good working order and well maintained, including specified inspections. In 2004, the state settled the *Williams v. California* lawsuit and agreed to a number of initiatives intended to provide equal access to instructional materials, safe and decent school facilities, and qualified teachers. The settlement resulted in

an agreement to provide funds to low-performing schools, including $800 million for emergency repair of school facilities. COEs were charged with inspection of the low-performing schools based on criteria of schools in good repair. "Good repair" is defined as a facility that is clean, safe, and functional. The settlement also includes a lengthy list of facilities components required to be inspected, including gas pipes, doors and windows, fences, fire sprinklers, fire extinguishers, alarm systems, electrical systems, lighting, drinking fountains, roofs, gutters, and mechanical systems, which includes HVAC systems.

Under the Labor Code, the Occupational Safety and Health Standards Board (Board) is authorized to develop health and safety requirements for the protection of workers. Regulations adopted by the Board require HVAC systems to be maintained and operated in accordance with the State Building Standards Code and continuously functioning during working hours with some exceptions (e.g., during scheduled maintenance). The regulations also require the HVAC system to be inspected at least annually and problems found during the inspections to be corrected within a reasonable time. The employer is required to document in writing the name of the individual inspecting or maintaining the system, the date of the inspection and/or maintenance, and the specific findings and actions taken. The records are required to be retained for at least five years and made available for examination and copying, within 48 hours of a request, to the Division of Industrial Relations, any employee of the employer, and to any designated representative of employees.

3) *Carbon dioxide monitors.* Studies have found a link between low ventilation rates (supply of outdoor air) in classrooms and attendance, health, and student performance. Adequate ventilation helps students be more alert and focused and is associated with fewer respiratory symptoms and absences due to illness. Ventilation standards are specified in Title 24 regulations. In a 2020 article, researchers at the Lawrence Berkeley National Laboratory and the Western Cooling Efficiency Center at UC Davis reported findings of a study of 11 K-12 schools, monitoring 104 classrooms, with ventilation rates of a majority of the classrooms exceeding the Title 24 level. Carbon dioxide monitors can be used as a proxy for the level of ventilation in a classroom. When classrooms are empty, carbon dioxide levels will be lower. When classrooms are occupied, carbon dioxide levels will be higher as carbon dioxide is exhaled by the people in the room.

The construction of school district, COE, and CCC facilities is required to comply with Title 24 regulations. Beginning January 1, 2023, Title 24 requires carbon dioxide monitors to be installed in all new classrooms. According to the DSA, during the next Title 24 regulatory code cycle, carbon dioxide monitors for existing schools doing repairs or alterations may be considered. Charter and private schools are required to comply with local building codes and not Title 24 regulations.

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

According to the Senate Appropriations Committee:

- This bill could result in unknown, but potentially significant costs for school districts and community colleges to inspect and ensure that their HVAC systems meet the minimum ventilation rate requirements. However, it is unclear how many school and community college districts statewide need to install new filtration as a result of the inspections. The associated costs for these activities could be deemed to be reimbursable by the state.

- This bill could also result in additional, state reimbursable mandated costs for school and community college districts to install new carbon dioxide monitors classrooms. The amount would depend on the number of classrooms that do not already have carbon dioxide monitors installed (that meet the new standards to be adopted) and the extent of the installation costs, but the one-time costs could be in the hundreds of thousands to low millions of dollars of dollars.

- The CSU indicates that its campuses have already taken steps to improve filtration on their existing HVAC systems to bring them into compliance with COVID era safety era rules and regulations. Therefore, any additional costs as a result of this measure will be minor and absorbable within existing resources. The bill's costs for UC are also likely to be minor and absorbable within existing resources.

SUPPORT: (Verified 8/12/22)

Bluegreen Alliance
California Energy Alliance
California Faculty Association
California Federation of Teachers
California Teachers Association
Community Action to Fight Asthma

Natural Resources Defense Council
Western States Council Sheet Metal, Air, Rail and Transportation

OPPOSITION: (Verified 8/12/22)

None received

ARGUMENTS IN SUPPORT: The United States Green Building Council states, "Under-ventilated schools are associated with increased transmission of infection, asthma exacerbation, cognitive impairment, and health impacts. This, in turn, affects how students learn. Students who attend schools with poor ventilation rates find it more challenging to learn, perform simple and complex tasks, and make decisions. Setting a minimum ventilation rate requirement would set the expectation that fresh air is not something that is nice to have, but rather is necessary for students and teachers to function at school."

ASSEMBLY FLOOR: 59-9, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Megan Dahle, Davies, Fong, Gallagher, Kiley, Patterson, Seyarto, Smith
NO VOTE RECORDED: Berman, Chen, Choi, Flora, Lackey, Mathis, Nguyen, O'Donnell, Valladares, Voepel

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8/13/22 12:14:58

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

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THIRD READING

Bill No: AB 2233
Author: Quirk-Silva (D) and Cristina Garcia (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 10-2, 6/14/22
AYES: Dodd, Nielsen, Allen, Becker, Borgeas, Bradford, Hertzberg, Hueso, Portantino, Roth
NOES: Jones, Wilk
NO VOTE RECORDED: Glazer, Kamlager, Melendez

SENATE HOUSING COMMITTEE: 8-0, 6/21/22
AYES: Wiener, Bates, Caballero, Cortese, McGuire, Roth, Skinner, Umberg
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 6-1, 8/11/22
AYES: Portantino, Bates, Bradford, Laird, McGuire, Wieckowski
NOES: Jones

ASSEMBLY FLOOR: 57-1, 5/23/22 - See last page for vote

SUBJECT: Excess state land: development of affordable housing

SOURCE: Author

DIGEST: This bill requires the Department of General Services (DGS) to develop, in consultation with the California Department of Housing and Community Development (HCD), a plan to facilitate the development of affordable housing on state-owned excess land, as specified.

Senate Floor Amendments of 8/25/22 (1) require DGS to consult with HCD in developing a set of criteria to consistently evaluate state-owned parcels for suitability as affordable housing site and (2) delete various provisions in the bill,

including the requirement that following each review, DGS issue a report on its review.

ANALYSIS:

Existing law:

1) Establishes DGS for purposes of, among other things, planning, acquiring, constructing, and maintaining state buildings and property.

2) Authorizes DGS, subject to legislative approval, to sell, lease, exchange, or transfer various specified properties for current market value, or upon such other terms and conditions that DGS determines are in the best interest of the state.

3) Requires, by executive order, DGS to, among other things, create a digitized inventory of all excess state land, create screening tools for prioritizing affordable housing development on excess state land, and issue requests for proposals and select affordable housing developments on excess state land, as described.

4) Establishes criteria for state agencies to use in determining and reporting excess lands. A state agency must report land as surplus that is:

    a) Not currently utilized, or is underutilized, for any existing or ongoing programs;
    b) Land for which the agency cannot identify a specific utilization relative to future needs; and,
    c) Land not identified by the state agency within its master plan for facility development.

5) Requires DGS to dispose of surplus state real property in a specified manner, and prescribes the priority of disposition of the property before DGS may offer it for sale to private entities or individuals.

6) Authorizes DGS to sell surplus real property to a local agency or to a nonprofit affordable housing sponsor for affordable housing projects at a sales price less than fair market value if DGS determines that such a discount will enable housing for persons and families of low or moderate income.

7) Authorizes the Department of Transportation, if it determines that real property or an interest therein acquired by the state for highway purposes is no longer necessary for those purposes, to sell to DGS surplus property at less than the property's current fair market value, to the extent permissible, if the property is used for the development of affordable housing.

This bill:

1) Requires DGS, no later than September 1, 2023 and in consultation with HCD, to develop a set of criteria to consistently evaluate state-owned parcels for suitability as affordable housing sites.

2) Requires DGS, on or before July 1, 2024, and every four years thereafter, DGS to do all of the following:

   a) Conduct a review of all state-owned property and identify state-owned parcels that are potentially viable for affordable housing based on the established criteria developed by DGS.
   b) Following each review, contact all related state agencies to determine excess state land.
   c) Collaborate with HCD to prioritize excess state lands for development.

3) Requires DGS, on or before January 1, 2024, and every four years thereafter to update the digitized inventory created pursuant to Executive Order No. N-06-19 with all excess state land suitable for affordable housing identified pursuant to this bill.

4) Requires DGS and HCD, no later than June 1, 2023, and annually thereafter, to evaluate and update the screening tools jointly developed pursuant to Executive Order No. N-06-19.

5) Requires DGS, in consultation with HCD, to pursue the development of affordable housing on excess state properties, including those in the digitized inventory.

6) Requires all state agencies to respond to DGS' request for information to satisfy the requirement of this bill.

7) Provides that all state agencies shall consider exchanging excess state land with local governments for other parcels for purposes of affordable housing

development and preservation, if the exchange is appropriate and maximizes regional capacity to build and preserve affordable housing units.

8) Provides that all state agencies shall use all existing legal and financial authority, subject to the direction of the Governor, to expedite and prioritize the developments described in this bill.

9) Requires DGS, on or before January 1, 2024, and annually thereafter, to report to the Legislature on the status of the excess state properties identified pursuant to the provisions of this bill, including, but not limited to, whether the property has been released and, if so, for what purpose.

Background

Purpose of the Bill. According to the author's office, "before the COVID-19 pandemic, our state was facing the nation's worst housing crisis and in the last two year we have seen several families become housing insecure. Some Californians have had their homes foreclosed on, while others are on the brink of homelessness. AB 2233 will require DGS and HCD to carry out duties prescribed in Executive Order N-06-19 to identify improvements and establish criteria in order to maximize the use of excess state property for affordable housing."

Current Process for Disposal of surplus property. DGS is currently responsible for the disposition of state-owned property that has been declared surplus to future state needs. The Legislature must declare the property to be surplus and must authorize the Director of DGS to sell, exchange, lease, or transfer the surplus property according to specified procedures set forth in law.

Generally, current law requires surplus property to be transferred or sold at market value, or upon such other terms and conditions that DGS determines are in the best interest of the state. Current law gives right of first refusal on any surplus property to a local agency and then to a nonprofit affordable housing sponsor, prior to being offered for sale to private entities or individuals in the open market. In addition, DGS is authorized to sell surplus property to a local agency or to a nonprofit affordable housing sponsor at a sales price less than fair market value if DGS determines that such a discount will enable housing for individuals or families of low or moderate income.

Executive Order N-06-19. In January 2019, Governor Newsom issued Executive Order (EO) N-06-19, which directed DGS and HCD to identify and inventory

excess state-owned property for affordable housing projects. Within the required three months, DGS reviewed over 44,000 parcels, and identified 92 properties that were potentially suitable for housing. As of March 2022, DGS had offered 19 of these properties for affordable housing development, each of which is proceeding through the planning, development, or construction phase. The properties will provide approximately 1,700 affordable housing units.

State Audit Report. In March of 2022, the State Auditor issued an audit titled *State Surplus Property: the State Should Use Its Available Property More Effectively to Help Alleviate the Affordable Housing Crisis.* The audit was mostly positive about the EO, stating that the audit had "found that the executive order has proven effective in its intent, and we estimate that it could ultimately make way for more than 32,000 housing units." It also found that the EO has resulted in the pace of converting excess state property to affordable housing has accelerated from less than one per year to more than six.

However, the audit went on to identify a number of issues with implementation of the EO, including that:

1) At current staffing levels, it will take DGS seven more years to offer up the remaining 73 properties identified in the initial analysis;
2) Given the expedited nature of the initial review, DGS missed sites that would have been identified using more rigorous search criteria; and
3) That the EO did not create an ongoing process for reviewing, identifying, and disposing of surplus land for possible development of affordable housing.

The audit concludes with recommendations for the Legislature, DGS, and HCD. The audit recommended that the Legislature pass legislation to put the provisions of the EO permanently into statute. This bill would implement some the audit's recommendations regarding codifying the EO and related policies.

Related/Prior Legislation

SB 561 (Dodd, 2022) requires DGS to develop criteria to evaluate the suitability of state-owned parcels determined to be used for affordable housing and to conduct a comprehensive survey of state-owned parcels using that criteria by January 1, 2024, and every four years thereafter. (Pending on the Assembly Floor)

AB 2592 (McCarty, 2022) requires DGS to prepare and report to the Legislature a streamlined plan to transition underutilized multistory state buildings into housing, as specified. (Pending on the Senate Floor)

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

According to the Senate Appropriations Committee:

- DGS estimates a one-time cost of $250,000 to screen out certain categories of properties and ongoing annual costs of $631,000 to solicit affordable housing developers and award leases. DGS also notes additional costs of $200,000 every four years for consulting costs to conduct the review of all state-owned property and identify state-owned parcels that are potentially viable for affordable housing. DGS further notes that while it has received two additional positions through this year's budget, additional staffing may also be necessary as more leases are awarded, in order to monitor the lessees' compliance with the lease terms and progress toward fulfilling their affordable housing goals.
- The California Housing Finance Agency (CalHFA) does not anticipate a fiscal impact.
- Unknown fiscal impact to other state agencies to use all legal and financial authority to prioritize and expedite affordable housing projects on state land.

SUPPORT: (Verified 8/24/22)

Aids Healthcare Foundation
California Apartment Association
California Housing Partnership Corporation

OPPOSITION: (Verified 8/24/22)

State Building and Construction Trades Council, AFL-CIO

ARGUMENTS IN SUPPORT: According to the California Apartment Association, "California is in the midst of a housing crisis. One critical solution to the crisis is increasing the state's supply of affordable housing. By requiring DGS, in consultation with HCD, to issue requests for proposals on individual state-owned parcels and accept proposals from affordable housing developers interested in entering into low-cost, long-term ground leases, AB 2233 creates an important step to increasing California's supply of affordable housing."

ARGUMENTS IN OPPOSITION: According to the State Building and Construction Trades Council, AFL-CIO, "while we agree with the idea that

studying and repurposing public properties for the production of affordable housing is an idea worth enacting, this bill will provide new properties for developers at reduced cost on which to build housing but includes no requirements that developers or contractors use apprentices or journeymen or women who are graduate of state-approved apprenticeship programs. These projects will be large and should be so that the state can make a real dent in our affordable housing backlog, so it should be a given that a skilled and trained workforce should be used. By not ensuring that workers be graduates of state-approved apprenticeship programs, it further emboldens developers to find their workers in the underground economy which widely exploits workers in residential construction."

ASSEMBLY FLOOR: 57-1, 5/23/22
AYES: Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kiley, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow
NO VOTE RECORDED: Aguiar-Curry, Berman, Mia Bonta, Chen, Choi, Megan Dahle, Davies, Gallagher, Kalra, Lackey, Mathis, Nguyen, O'Donnell, Patterson, Blanca Rubio, Seyarto, Smith, Valladares, Voepel, Waldron

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8/26/22 15:41:28

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

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THIRD READING

Bill No: AB 2236
Author: Low (D)
Amended: 8/25/22 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 9-1, 6/27/22
AYES: Roth, Archuleta, Becker, Dodd, Eggman, Hurtado, Leyva, Newman, Ochoa Bogh
NOES: Pan
NO VOTE RECORDED: Melendez, Bates, Jones, Min

SENATE APPROPRIATIONS COMMITTEE: 4-0, 8/11/22
AYES: Portantino, Laird, McGuire, Wieckowski
NO VOTE RECORDED: Bates, Bradford, Jones

ASSEMBLY FLOOR: 65-0, 5/12/22 (Consent) - See last page for vote

SUBJECT: Optometry: certification to perform advanced procedures

SOURCE: California Optometric Association

DIGEST: This bill adds advanced procedures that an optometrist is authorized to perform pursuant to the Optometric Practice Act (Act) if specified education and training conditions are met. This bill authorizes the Board of Optometry (Board) to charge a fee to issue a certificate to an optometrist who is authorized to perform advanced procedures.

Senate Floor Amendments of 8/25/22 clarify reference to "board" in the bill means the Board; delete a provision that permitted a course administrator, on a case-by-case basis to certify competency if not all specified procedures are completed and instead allows an optometrist seeking initial certification to, once, substitute completion of training in one type of procedure for a similar procedure; delete the requirement that a qualified educator notify their respective licensing board of their participation as a qualified educator; clarify the requirements for renewing an advanced procedure certificate and; resolve chaptering conflicts.

ANALYSIS:

Existing law:

1) Requires an optometrist diagnosing or treating eye disease to be held to the same standards of care for physicians and surgeons and osteopathic physicians and surgeons, as specified. (Business and Professions Code (BPC) § 3041.1)

2) Requires an optometrist seeking certification to use therapeutic pharmaceutical agents, diagnose, and treat specified conditions to apply for a certificate from the Board and meet additional education and training requirements. (BPC § 3041.3)

This bill:

1) States that an optometrist certified to treat glaucoma, as specified, is certified to perform certain advanced procedures after meeting specified requirements, which include graduating from an accredited school of optometry. Requires an optometrist to satisfy the following to perform the advanced procedures

    a) Complete a Board-approved course of at least 32 hours that is designed to provide education on the advanced procedures, including, but not limited to, medical decision-making that includes cases that would be poor surgical candidates, an overview and case presentations of known complications, practical experience performing the procedure including a detailed assessment of the optometrist's technique and a written examination for which the optometrist obtains a passing score, and pass both sections of the National Board of Examiners in Optometry's Laser and Surgical Procedures Examination, unless waived as specified, within two-years prior to beginning the requirements in b) below.

    b) Within three years, complete a board-approved training program in California, which includes all of the required procedures, which involve sufficient direct experience with live human patients to permit certification of competency by an accredited California school of optometry and contain hands-on instruction and performing at least 43 complete surgical procedures on live human patients. The training required must include at least a certain percent of the 43 procedures performed in a cohort model where, for each patient and under the direct supervision of a qualified educator, each member of the cohort independently assesses the patient, develops a treatment plan, evaluates the clinical outcome post treatment, develops a plan to address any adverse or unintended clinical outcomes, and

discusses and defends medical decision-making. The board-approved program is responsible for determining the percentage of the required procedures.

c) Any procedures not completed under the terms above may be completed under a preceptorship model where, for each patient and under the direct, in-person supervision of a qualified educator, the optometrist independently assesses the patient, develops a treatment plan, evaluates the clinical outcome post-treatment, develops a plan to address any adverse or unintended clinical outcomes, and discusses and defends medical decision-making.

d) The qualified educator must certify the competent performance of procedures completed on a form approved by the Board. Upon the optometrist's completion of all certification requirements, the course administrator, who must be a qualified educator for all procedures authorized, on behalf of the program and relying on the certifications of procedures by qualified educators and certify that the optometrist is competent to perform advanced procedures using a form approved by the Board. Permits one time per optometrist seeking initial certification to substitute a procedure that imparts similar skills to achieve the total number of complete procedures, as specified but does not apply to a corneal crosslinking procedure, as specified.

2) Requires an optometrist to make a timely referral of a patient and all related records to an ophthalmologist, or in an urgent or emergent situation and an ophthalmologist is unavailable, a qualified center to provide urgent or emergent care, after stabilizing the patient to the degree possible, if either the optometrist makes an intraoperative determination that a procedure being performed does not meet specified criterion or if he optometrist receives a pathology report for a lesion indicating the possibility of malignancy.

3) States that the provisions of this bill do not authorize performing blepharoplasty or any cosmetic surgery procedure, including injections, with the exception of removing acrochordons that meet other qualifying criteria.

4) Requires an optometrist to monitor and report specified information to the Board including information about advanced procedures and adverse outcomes. Requires with each subsequent licensure renewal after being certified to perform the advanced procedures, as specified, the optometrist shall attest that they have performed at least two each of the advanced procedures required for certification during the period of licensure preceding the renewal

which may include procedures performed during a certification process and within the timeframe.

5) Subjects an advanced procedures certification to restriction in the category for which the optometrist did not complete the required advanced procedures and specifies the requirements to cure the deficiency, as specified.

6) Requires the Board to review adverse treatment outcome reports in a timely manner, requesting additional information as necessary to make decisions regarding the need to impose additional training, or to restrict or revoke certifications based on patient safety authority. Further requires the Board to compile a report summarizing the data collected, including, but not limited to, percentage of adverse outcomes, distributions by unidentified licensee and Board interventions and make the report available on its website.

7) Permits the Board to adopt regulations, as specified, and permits the Board to set the fee for a certificate authorizing advanced procedures.

8) Defines a "complete procedure" to mean all reasonably included steps to perform a surgical procedure, including, but not limited to, preoperative care, informed consent, all steps of the actual procedure, required reporting and review of any specimen submitted for pathologic review, and postoperative care, and multiple surgical procedures performed on a patient during a surgical session, is to be considered a single surgical procedure.

9) Defines a "qualified educator" to mean a person nominated by an accredited California school of optometry as a person who is believed to be a suitable instructor, is subject to the regulatory authority of that person's licensing board in carrying out required responsibilities and is either a California licensed optometrist, as specified or a California licensed physician and surgeon, as specified.

10) Makes other technical and conforming changes.

Background

Optometrists and the Board of Optometry. Optometrists examine, diagnose, treat, and manage diseases, injuries, and disorders of the visual system, the eye, and associated structures, as well as identify related systemic conditions affecting the eye. The Board is responsible for issuing optometry certifications for Diagnostic Pharmaceutical Agents, Therapeutic Pharmaceutical Agents, Lacrimal Irrigation and Dilation, and Glaucoma. The practice of optometry is specified in BPC Section 3041, and includes the prevention and diagnosis of disorders and

dysfunctions of the visual system and the treatment and management of certain disorders and dysfunctions of the visual system, as well as the provision of rehabilitative optometric services, and any or all of the acts further specified in BPC Section 3041. To obtain an optometry license in California, an individual must have a degree of optometry issued by an accredited school or college of optometry, pass the three –part National Board of Examiners in Optometry (NBEO) examination and the California Laws and Regulations Examination, and not have been convicted of a crime, or disciplined for acts substantially related to the profession. There are currently three accredited schools of optometry located in California.

Current Practice of Optometry. A "scope of practice" typically specifies what a healthcare provider can and cannot do for their patients, and generally how they can operate within their profession. As currently drafted, this bill modifies the current scope of practice for optometrists by allowing an optometrist who meets additional training and certification requirements, as prescribed in this bill, to perform specific advanced optometric procedures including laser trabeculoplasty, laser peripheral iridotomy for a defined purpose, laser posterior capsulotomy after cataract surgery, and excision and or drainage of noncurrent lesions of the adnexa, as specified, which is less than five millimeters in diameter, closure of wounds for excision, injections for treatment of chalazia, and corneal crosslinking procedure, as specified.

As part of the certification requirements to be eligible to perform the advanced procedures noted above, an optometrist would need to be licensed in California and certified to treat glaucoma as prescribed in existing law, complete a minimum 32-hour, board-approved course that is designed to provide education on the advanced procedures and pass the NBEO's, Laser and Surgical Examination. Within three years of completing that course and passing the examination, the individual would additionally be required to complete a board-approved training program in California that includes the performance of 43 specified procedures on a live human patient.

The training, which is to include live patients, must include a percentage of procedures be performed in a cohort model. That percentage required is to be determined by the board-approved education program. For those procedures not completed under the cohort model, those procedures are completed under a preceptorship model. A qualified educator, as defined in this bill is a person nominated by an accredited school of optometry who is believed to be a suitable instructor and is either a California-licensed optometrist who is certified to perform advance procedures or a California-licensed physician and surgeon. As stated in

this bill, the qualified educator will be responsible for certifying the competent performance of the procedures completed.

In order to implement the educational and training requirements prescribed by this bill, an additional education course will need to be developed, and the Board will need to approve the education program.

Other States. There are reportedly 10 other states that allow optometrists to utilize lasers for the treatment of certain eye conditions including Alaska, Wyoming, Colorado, Oklahoma, Arkansas, Mississippi, Louisiana, Kentucky, Mississippi, and Virginia.

This bill requires an optometrist who is certified to perform advanced procedures to provide specified reports to the Board, including adverse treatment reports. In addition, as part of the optometrist license renewal, those certified to perform advance procedures will be required to provide an attestation to the Board, that they have completed specified procedures in the past two years. For those areas where the required number of procedures were not completed, the optometrists advance procedure certification may be restricted for those specified procedures.

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

According to the Senate Appropriations Committee, this bill will result in unknown fiscal impact to the Board, likely ranging in the high-hundreds of thousands to low-millions of dollars. The analysis also notes that the Board would likely need a delayed implementation date to fully stand-up the new certification and that absent delayed implementation, there will be additional Board cost and workload pressures.

SUPPORT: (Verified 8/25/22)

California Optometric Association (source)
American Optometric Student Association
Western University of Health Sciences
One individual

OPPOSITION: (Verified 8/25/22)

American Medical Association
California Academy of Eye Physicians and Surgeons
California Medical Association
California Society of Plastic Surgeons
Union of American Physicians and Dentists

ARGUMENTS IN SUPPORT: Supporters note that optometrist are already trained to perform these procedures as part of their education in school and this bill provides additional training that will be more rigorous than any other state and that this bill requires additional testing to ensure competency.

ARGUMENTS IN OPPOSITION: Opponents note concerns with the proposed training and education requirements for optometrists to provide additional procedures, and further note concerns of patient harm.

ASSEMBLY FLOOR: 65-0, 5/12/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Salas, Santiago, Seyarto, Smith, Stone, Ting, Villapudua, Voepel, Waldron, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Boerner Horvath, Cunningham, Davies, Gray, Grayson, Kiley, Lackey, Lee, Quirk-Silva, Rodriguez, Blanca Rubio, Valladares, Ward

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
8/26/22 15:41:28

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

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THIRD READING

Bill No: AB 2238
Author: Luz Rivas (D), Eduardo Garcia (D) and Cristina Garcia (D), et al.
Amended: 8/24/22 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-0, 6/8/22
AYES: Allen, Dahle, McGuire, Skinner, Wieckowski
NO VOTE RECORDED: Bates, Stern

SENATE INSURANCE COMMITTEE: 11-0, 6/22/22
AYES: Rubio, Jones, Bates, Borgeas, Dodd, Glazer, Hertzberg, Hueso, Melendez, Portantino, Roth
NO VOTE RECORDED: Hurtado

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 73-0, 5/23/22 - See last page for vote

SUBJECT: Extreme heat: statewide extreme heat ranking system

SOURCE: Author

DIGEST: This bill requires the California Environmental Protection Agency (CalEPA), in coordination with the Integrated Climate Adaptation and Resiliency Program (ICARP), the California Department of Public Health (CDPH), and the California Department of Insurance (CDI), to develop a statewide extreme heat ranking system.

Senate Floor Amendments of 8/24/22 delay implementation of the extreme heat ranking system, and require CalEPA, in coordination with the ICARP, the CDPH, and CDI to periodically review and update the ranking system.

ANALYSIS:

Existing law:

1) Establishes the Office of Planning and Research (OPR) to serve the Governor as staff for long-range planning and research including management of state planning grants and coordination of federal grants for environmental goals. (Government Code (GOV) §65040)

2) Establishes within OPR the Integrated Climate Adaptation and Resiliency Program (ICARP) to develop a cohesive and coordinated response to the impacts of climate change across the state. The program includes the State Adaptation Clearinghouse which serves as a centralized source of information and resources for planning and implementing climate adaptation projects. (Public Resources Code (PRC) §71350-71360)

3) Requires the commissioner of the California Department of Insurance (CDI), under SB 30 (Lara, Chapter 614, Statutes of 2018), to convene a working group to identify, assess, and recommend risk transfer market mechanisms that promote investment in natural infrastructure to reduce the risks of climate change related to catastrophic events. (Insurance Code § 12922.5)

This bill:

1) Directs CalEPA to, in coordination with ICARP, CDPH, and CDI, on or before January 1, 2025, develop a statewide extreme heat ranking system, as specified.

2) Requires CDI to, on or before January 1, 2024, report to the Legislature, CalEPA, and ICARP, their findings from a study identifying past extreme heat events, drawing information, and developing recommendations, as specified.

3) Directs CalEPA to, in coordination with ICARP and CDI, on or before January 1, 2024, develop a statewide extreme heat ranking system, as specified, considering information included in the CDI report above.

4) Requires ICARP to, once the extreme heat ranking system is finalized, to develop a public communication plan, recommended partnerships to prepare for extreme heat events, and recommend specific heat adaptation measures that

could be triggered by the ranking system.

5) Directs CalEPA, in coordination with ICARP, CDPH, and CDI, to periodically review and update the extreme heat ranking system, as appropriate.

Background

1) *Extreme heat kills, but how many?* Record-breaking heatwaves and increasing temperatures pose a direct threat to public health; however, there is little information available about the number of heat-related deaths in the state. Various reports have found that heat-related deaths are significantly underreported and that the information that is available lags, sometimes by years, making it impossible for public agencies to respond to heat emergencies in a timely manner. The state does not collect real-time data on heat illness from hospitals or require counties to track and report incidents of heat illness. Research has shown that heat-related health impacts almost exclusively affect lower income and disadvantaged communities, persons with disabilities and seniors. Wealthier Californians who have access to air conditioning in their cars, homes and offices do not generally suffer the most serious effects of extreme heat. A 2021 study by the Luskin Center for Innovation identified significant policy gaps and fragmented state regulation of extreme heat. There is no state entity responsible for managing extreme heat and little coordination of the various departments that administer the state's extreme heat policies.

   In 2013, the state issued guidance and more than 40 recommendations to better prepare the state for extreme heat events, but the state did little to implement the recommendations.

2) *Taking action in California.* Last year, the state renewed its efforts to combat the impacts of extreme heat. The 2021 Climate Adaptation Strategy released by the California Natural Resources Agency includes an Extreme Heat Action Plan (Plan), which serves as an update to the 2013 report. The Plan includes "strategic and comprehensive" state actions that can be taken to address extreme heat, including:
   - Implementing a statewide public health monitoring system to identify heat illness events early, monitor trends, and track illnesses and deaths;
   - Cooling schools in heat-vulnerable communities and support climate smart planning;
   - Accelerating heat readiness and protection of low-income households and expanding tree canopy in communities most impacted by extreme heat;

- Protecting vulnerable populations through increased heat risk-reduction strategies and codes, standards, and regulations;
- Building a climate smart workforce through training partnerships and apprenticeships in jobs and careers that address extreme heat;
- Increasing public awareness to reduce risks posed by extreme heat;
- Supporting local and regional extreme heat action;
- Protecting natural systems, including fish and wildlife, from the impacts of extreme heat.

The state adopted a $15 billion climate package in 2021 to combat the climate crisis, including $800 million over three years to address the impacts of extreme heat and $300 million over two years to support the implementation of the Plan. Programs to address the impacts of extreme heat include urban greening, energy assistance for low-income families, community resilience centers, and low-income weatherization. The Governor's proposed 2022-23 budget includes approximately $175 million in the second year of investments for extreme heat programs.

A 2021 study by UCLA's Luskin Center for Innovation identified significant policy gaps and fragmented state regulation of extreme heat. The authors point out that there is no state entity responsible for managing extreme heat, and little coordination of the various departments that administer the state's extreme heat policies. The study notes that in addition to the obvious health impacts, heat also affects mental health, makes it harder for students to learn, and harder for workers to do their jobs safely. The report's main findings include:

- Most existing California heat-exposure standards are inadequate or have limited compliance;
- Most existing state programs do not make investments that explicitly target heat-vulnerable places or quantify heat risk-reduction benefits;
- Local planning efforts may not prepare cities adequately for extreme heat; and,
- Improving thermal comfort in public spaces and reducing urban heat island effects rely largely on voluntary state guidance.

The Climate Insurance Report, developed by the California Climate Insurance Working Group, identifies four key elements of resilience – risk assessment, risk communication, risk reduction, and risk transfer. Risk assessment and risk communication support community preparation and enable public policies to anticipate events. Early investment in risk reduction reduces future losses, and the expansion of risk transfer options could lead to more affordable and

effective insurance concepts. The report applies these elements of risk to three impacts of climate change: wildfire, flood, and extreme heat. The report provides specific recommendations for preventing and managing the risks associated with these impacts, to reduce climate risks to communities.

The report includes a recommendation to rank heat waves to provide a statewide early warning system to communities and avoid deaths and significant costs, which are often uninsured.

Comments

Purpose of Bill. According to the author, "California's most vulnerable communities disproportionately suffer from the impacts of climate change, and extreme heat events. To better help local governments and residents prepare for these life-threatening weather events, early and advanced warning is needed. Much like the ranking of severe storms, a ranking system for extreme heat waves would provide a clear communication tool for warning vulnerable communities of impending and dangerous heat events. A heat wave ranking system would help local and state governments better target resources and prepare their response efforts.

"Advance warnings provide local governments the opportunity to properly deploy their response efforts and provide a window of opportunity for protecting property, avoiding harm, and ultimately saving lives. For example, early warning of an approaching hurricane often prompts boarding up windows and placing sandbags. California's "red flag" warnings for wildfire conditions and the National Oceanic and Atmospheric Association's tropical storm and hurricane naming system could serve as templates for the state to rank heat waves

"California is uniquely positioned to lead the nation in establishing the first ever-ranking system for heat waves, a system that will be used to proactively protect people's lives and property."

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

According to the Senate Appropriations Committee:

- Unknown ongoing costs, likely in the hundreds of thousands of dollars annually (General Fund), for CalEPA to develop and maintain the statewide extreme heat ranking system.
- Unknown one-time costs, likely in the millions of dollars spread over several years (General Fund) for the Office of Planning and Research for additional

communications workload, contracting costs to support language access, and funding for guidelines and heat adaptation measures, as well as resources to support the development and design of the bill's envisioned communications plan.

- Unknown one-time costs, potentially in the hundreds of thousands of dollars, for the California Department of Insurance (CDI) to produce the report required by this bill. Unknown but likely minor ongoing costs for CDI and the California Department of Public Health (CDPH) to consult with CalEPA on the extreme heat ranking system.

SUPPORT: (Verified 8/24/22)

Insurance Commissioner Ricardo Lara
AARP
Adrienne Arsht - Rockefeller Foundation Resilience Center
American Society for the Prevention of Cruelty to Animals
Audubon California
California Council of the American Society of Landscape Architects
California Labor Federation, AFL-CIO
Civicwell
Clean Power Alliance
Clean Power Alliance of Southern California
Climate Resolve
Environmental Defense Fund
Los Angeles City Councilmember, Paul Krekorian
Los Angeles County
Los Angeles Urban Cooling Collaborative
Nature Conservancy; the
Neighborhood Legal Services of Los Angeles County
Nextgen California
The Greenlining Institute
Treepeople
20 individuals

OPPOSITION: (Verified 8/24/22)

None received

ASSEMBLY FLOOR: 73-0, 5/23/22

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

Prepared by: Eric Walters / E.Q. / (916) 651-4108
8/26/22 15:41:29

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

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THIRD READING

Bill No: AB 2242
Author: Santiago (D) and Friedman (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 8-0, 6/22/22
AYES: Pan, Eggman, Gonzalez, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Melendez, Grove, Hurtado

SENATE JUDICIARY COMMITTEE: 10-0, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, Jones, McGuire, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 63-1, 5/26/22 - See last page for vote

SUBJECT: Mental health services

SOURCE: Author

DIGEST: This bill (1) requires individuals who have been involuntarily detained for purposes of evaluation and treatment, and placed under a conservatorship, to receive a care coordination plan developed by specified entities; (2) requires the Department of Health Care Services (DHCS) to convene a stakeholder group to create a model care coordination plan to be followed when discharging those held under temporary holds or a conservatorship; and, (3) permits county mental health plans to pay for the provision of services for individuals placed under involuntary detentions and conservatorship using specified funds, including Mental Health Services Act funds, as specified.

Senate Floor Amendments of 8/25/22 incorporate technical assistance from DHCS and do the following:

1) Specify that care coordination plans for those leaving involuntary detentions must be implemented upon enactment of this bill without waiting for DHCS to develop a model care coordination plan to be used by all facilities authorized to involuntarily detain individuals;

2) Extend the timeframe by which DHCS is required to convene a stakeholder group to create a model care coordination plan from July 1, 2023, to December 1, 2023;

3) Require the care coordination plan to include a scheduled first appointment with specified entities to whom an individual being released from an involuntary detention is referred;

4) Extend the timeframe by which all facilities are required to implement the model care coordination plan developed by DHCS from February 1, 2024, to August 1, 2024; and,

5) Delete the requirement for the Mental Health Services Oversight and Accountability Commission (MHSOAC) to develop, implement, and oversee a framework for tracking and reporting spending on mental health programs and services from all major fund sources and of program- and service-level and statewide outcome data.

ANALYSIS:

Existing law:

1) Establishes the Lanterman-Petris-Short (LPS) Act to end the inappropriate, indefinite, and involuntary commitment of individuals with mental health disorders, developmental disabilities, and chronic alcoholism, as well as to safeguard an individual's rights, provide prompt evaluation and treatment, and provide services in the least restrictive setting appropriate to their needs. Permits the involuntary detention of an individual who is found to be a danger to self or others, or gravely disabled, for various periods of time for evaluation and treatment. [WIC §5000, et seq.]

2) Establishes the 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]

3) Requires each county mental health program (CMHP) to prepare and submit a three-year program and expenditure plan, and annual updates, as specified, to the MHSOAC and the Department of Health Care Services (DHCS) within 30 days after adoption by the county board of supervisors, including the establishment and maintenance of a prudent reserve, not to exceed 33% of specified funds, to ensure the CMHP will continue to be able to serve the populations that it is currently serving. [WIC §5847 and §5892]

4) Requires MHSA funding to be utilized to expand mental health services. Prohibits MHSA funds from being used to supplant existing state or county funds utilized to provide mental health services. [WIC §5891]

5) Requires programs and services funded by the MHSA to be designed for voluntary participation. Prohibits persons from being denied access to services solely based on their voluntary or involuntary legal status. [9 CCR §3400]

6) Requires CMHPs to use MHSA funds only to establish or expand mental health services and/or supports for the following specified components: Community Services and Supports (CSS); Capital Facilities and Technological Needs (CFTN); Workforce Education and Training (WET); Prevention and Early Intervention (PEI); Innovative Programs (INN); and the No Place Like Home (NPLH) Program. [WIC §5849.1, et seq. and 9 CCR §3310]

This bill:

1) Requires an individual who has been involuntarily detained for purposes of evaluation and treatment under a 5150 hold and an initial up-to 14-day hold, and placed under a conservatorship, to receive, prior to release, a care coordination plan, even before DHCS creates a model care coordination plan, as specified.

2) Requires the care coordination plan to be developed by, at a minimum, the individual, the facility, the county behavioral health department, the health care payer, if different from the county, and any other persons designated by the individual, as appropriate. Requires, for individuals placed under a 5150 hold, the care coordination plan to also include input and recommendations from the facility.

3) Requires the care coordination plan to include a first follow-up appointment with the health plan, mental health plan, primary care provider, or another appropriate provider to whim the person has been referred. Requires the

appointment information to be provided to the individual before being released.

4) Prohibits an individual who is on involuntary detention or conservatorship from being detained beyond when they would otherwise qualify for release. Requires all care and treatment after release to be voluntary.

5) Requires, for purposes of care coordination and to schedule a follow-up appointment, the health plan, mental health plan, primary care provider, and other appropriate provider to whom the individual has been referred to make a good faith effort to contact the referred individual no fewer than three times, either by email, telephone, mail, or in-person outreach, whichever method or methods are most likely to reach them.

6) Requires DHCS, on or before December 1, 2023, to convene a stakeholder group to create a model care coordination plan to be followed when discharging those held under temporary holds or a conservatorship. Requires the stakeholder group to include, at a minimum, the County Behavioral Health Directors Association (CBHDA), the California Chapter of the American College of Emergency Physicians, the California Hospital Association, Medi-Cal managed care plans, private insurance plans, other organizations representing the various facilities where individuals may be detained under temporary holds or a conservatorship, other appropriate entities or agencies as determined by DHCS, and advocacy organizations representing those who have been involuntarily detained or conserved, as well as individuals who have been detained or conserved.

7) Requires the model care coordination plan and process to outline who will be on the care team and how the communication will occur to coordinate care, and to specify that the care coordination is a shared responsibility between, at a minimum, the county, the facility, and the health care payer, if different from the county, as specified.

8) Requires each CMHP to ensure that a care coordination plan that ensures continuity of services and care in the community for all individuals exiting holds or a conservatorship under this bill is established. States Legislative intent that counties and hospitals be required to implement the model care coordination plan on or before August 1, 2024.

9) Permits CMHPs to use MHSA funds to pay for services provided under this bill, including to those who are being treated on an involuntary basis.

Comments

1) *Author's statement.* According to the author, it is inhumane to be a bystander when we have the power to do something to save lives. It is agonizing to see the high number of individuals who are homeless and have a mental health illness that are dying on the streets. Many of these deaths could have been prevented with adequate care. This bill improves how California provides care to individuals facing a mental illness by creating a more coordinated, accountable and comprehensive mental health system that ensures people receive the adequate care if placed on a hold.

2) *California State Auditor (CSA) audit on the LPS Act.* The CSA released *LPS Act: California Has Not Ensured That Individuals with Serious Mental Illnesses Receive Adequate Ongoing Care* on July 28, 2020. The audit focused on the issues in Los Angeles, San Francisco, and Shasta Counties. Relative to this bill, the CSA concluded that the state does not know the extent to which billions in funding has assisted individuals with mental illness. Realignment funds, according to the CSA, require some reporting but generally does not allow for the public to easily know how the funds are being spent or if they are helping those with mental illness. One report is not designed for public reporting, and another does not include all realignment funds. Likewise, the CSA stated that DHCS's reporting for Medi-Cal funds includes some legislatively mandated performance outcome reports, but that this reporting is insufficient for providing a comprehensive understanding of services offered by CMHPs because they are limited to the services for which Medi-Cal pays. (For instance, Medi-Cal does not pay for services provided at state hospitals for those being treated under the LPS Act.) The CSA highlighted the MHSA as containing the most comprehensive public reporting requirements but identified some issues that make it difficult for stakeholders to determine the balance of unspent funds that CMHPs maintain. For example, the CSA found that CMHPs' unspent funds after FY 2018-19, excluding funds they are permitted to reserve, represented between 73-175% of their respective 2018-19 MHSA revenues. The CSA stated that while some CMHPs argued that most of those funds were already allocated, it is still important for stakeholders to be able to access information about those unspent balances. One complication in knowing that information is a result of DHCS changing its template it provides to CMHPs for the yearly MHSA revenue and expenditure reporting, which no longer asks CMHPs to provide their total unspent funds. Additionally, according to the CSA, DHCS adopted regulations that effectively prohibit DHCS from changing the content of the yearly CMHP reports without revising its regulations. Without that information, stakeholders and the MHSOAC are unable to completely understand MHSA

funding and expenditures. As a result, the CSA recommended that the Legislature assign primary responsibility to the MHSOAC for comprehensive tracking of spending on mental health programs and service from major fund sources, and of program and service level and statewide outcome data, including CMHPs directly reporting to the MHSOAC.

NOTE: For a more extensive analysis, see the Senate Health Committee analysis.

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

According to the Senate Appropriations Committee:

- DHCS estimates state operations costs of $298,000 in 2023-24 and $280,000 ongoing thereafter (50 percent General Fund and 50 percent federal funds).
- The MHSOAC estimates operations costs of between $800,000 and $1 million ongoing (MHSA Fund).

- Costs to counties may be reimbursable by the state, subject to a determination by the Commission on State Mandates.

SUPPORT: (Verified 8/11/22)

Alameda County Families Advocating for the Seriously Mentally Ill
Association of Regional Center Agencies
Black Leadership Council
California Association of Hospitals and Health Systems
California Association of Psychiatrists
California Hospital Association
Emergency Nurses Association
Family and Consumer Advocates for the Severely Mentally Ill
Steinberg Institute
14 individuals

OPPOSITION: (Verified 8/11/22)

Cal Voices
California Alliance of Child and Family Services
California Association of Mental Health Peer-Run Organizations
California Association of Social Rehabilitation Agencies
California Hospital Association
Catholic Charities East Bay
County Behavioral Health Directors Association
Disability Rights California

Humannovations-U
Mental Health America of California
National Association of Social Workers, California Chapter
Peers Envisioning & Engaging in Recovery Services
Racial & Ethnic Mental Health Disparities Coalition
Rural County Representatives of California
The Village Project
Urban Counties of California
One individual

ARGUMENTS IN SUPPORT: The Association of Regional Center Agencies state that developing a model care coordination plan for people being discharged from a LPS Act hold is part of a long history of changes, refinements, and reforms that both directly and indirectly impact their service system. It will help improve the lives of people with developmental disabilities, and by virtue of benefiting them, it will strengthen the service system. Other supporters cite the CSA's findings in the LPS Act audit report and state that individuals often do not receive a continuum of care after being released from an involuntary hold and may continue to cycle through homelessness, incarceration, and hospitalization, and public reporting remains disjointed and incomplete. Supporters further argue that some who oppose this bill wrongly assert that the MHSA only funds voluntary treatment. While MHSA contains aspirational language favoring voluntary treatment (which they also favor), it has always mandated payment for medically necessary mental health services, medications, and supportive services not otherwise covered by private insurance or other state/federal funds; has always authorized building locked facilities with MHSA funds when the needs of the people to be served cannot be met in a less restrictive or more integrated setting; and, has always mandated funding for programs similar to the Mentally Ill Offender Crime Reduction Grant Program for the seriously mentally ill headed into and out of local jails, which are virtually never voluntary programs. Supporters also state that DHCS has repeatedly clarified that MHSA funds may be used for involuntary services, including LPS hospitalization.

The California Hospital Association (CHA) states they worked with the author's office on several issues, both technical and substantive, that enabled them to remove opposition and move to support. CHA states this bill would enhance accountability, data reporting, and continuity of care for individuals involuntarily detained because they may, due to a mental disorder, be gravely disabled or a danger to themselves or others.

ARGUMENTS IN OPPOSITION: A coalition of opponents (California Alliance of Child and Family Services, California Association of Mental Health Peer-Run Organizations, Catholic Charities East Bay, County Behavioral Health Directors Association (CBHDA), Humannovations-U, Mental Health America of California, National Association of Social Workers California Chapter, Peers Envisioning & Engaging in Recovery Services, Racial & Ethnic Mental Health Disparities Coalition, The Village Project, and one individual) argue that the relevant existing MHSA statute requires each CMHP to plan MHSA services consistent with the recovery vision for mental health consumers, including to promote concepts key to the recovery of individuals, such as hope, personal empowerment, respect, social connections, self-responsibility, and self-determination. The coalition states that the recovery vision is inconsistent with funding involuntary services and that existing law requires programs and/or services provided with MHSA funds be designed for voluntary participation, but individuals cannot be denied access to these programs based solely on their voluntary or involuntary legal status. The coalition and other opponents argue this provision makes clear that the MHSA is to fund voluntary services; however, if a conservatee seeks to voluntarily receive an MHSA service, the conservatee cannot be denied access to this service solely because of their status as a conservatee. Opponents further cite existing law that clarifies that a CMHP can only pay for short-term acute inpatient treatment for clients in full-service partnerships, a program with a "whatever it takes" approach to addressing a client's need. Opponents say these funds currently are used to pay for services that seek to prevent an individual from becoming a conservatee in the first place, and diverting MHSA dollars to pay for the most expensive, restrictive, segregated level of care at the expense of voluntary, community-based programs that are proven to work is the wrong path for California to take.

In a separate letter, CBHDA, the Rural County Representatives of California, and the Urban Counties of California state that county behavioral health agencies must report Medi-Cal specialty mental health and substance use disorder services billing data to DHCS to secure federal financial participation. CMHPs must also report client demographic information to DHCS and annually report MHSA expenditures to DHCS, as well as extensive MHSA three-year plans and annual updates, which include program level outcome data. In turn, this MHSA information is already shared with the MHSOAC. Annual fiscal submissions to DHCS include MHSA expenditures and remaining funds, which is again shared with the MHSOAC. This group states that although they agree with the goal of reporting outcomes that show the extent to which the state's entire mental health system is helping people in need, it is unclear why an overboard data collection requirements by the MHSOAC is included in this bill because of its main focus on involuntary care. This group

further argues that the MHSOAC has oversight authority and tremendous expertise in MHSA and needs to be a collaborator in any new reporting framework for the public behavioral health delivery system. However, since the MHSOAC has no role in the delivery of involuntary behavioral health services and lacks expertise in Medi-Cal and substance use disorder services, this group expresses concerned that an attempt for the MHSOAC to collect, analyze, and report on the broader behavioral health system would be inappropriate and result in onerous, duplicative reporting requirements for county behavioral health agencies. In addition, because this reporting would only capture county behavioral health mental health services, it would lack the more comprehensive reporting of Medi-Cal non-specialty mental health services, as well as substance use disorder services.

Cal Voices states that when the MHSA was passed six general standards were set forth. One of those standards was that mental health services under the MHSA were to be client-driven. Specifically, it was mandated that the client has the primary decision-making role in identifying their needs, preferences, and strengths, and a shared decision-making role in determining the services and supports that are most effective and helpful for them. Client driven programs/services use clients' input as the main factor for planning, policies, procedures, service delivery, evaluation, and the definition and determination of outcomes. Cal Voices states that transferring these funds to programs that force mental health services, such as those under the LPS Act, would be in clear opposition to this objective. As legislators across California rise to meet the growing need of individuals suffering from mental health issues, it has become increasingly concerning that involuntary, forced, and coerced treatment is now the natural answer to connecting people to care. Time and again, research has proven that effective, recovery-oriented mental health treatment does not occur through involuntary means. Cal Voices states that most notably the CSA's 2020 investigation on the LPS Act concluded that involuntary treatment did not lead to positive recovery outcomes. When it comes to involuntary treatment, the MHSA's intent is clear: voluntary services are its priority.

ASSEMBLY FLOOR: 63-1, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Cooley, Cooper, Cunningham, Daly, Davies, Mike Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mayes, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas,

Santiago, Stone, Ting, Valladares, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Voepel
NO VOTE RECORDED: Berman, Bigelow, Choi, Megan Dahle, Flora, Fong, Holden, Mathis, McCarty, O'Donnell, Patterson, Seyarto, Smith, Villapudua

Prepared by: Reyes Diaz / HEALTH / (916) 651-4111
8/26/22 15:41:30

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

SENATE RULES COMMITTEE AB 2243
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2243
Author: Eduardo Garcia (D) and Luz Rivas (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 3-0, 6/22/22
AYES: Cortese, Durazo, Laird
NO VOTE RECORDED: Ochoa Bogh, Newman

SENATE APPROPRIATIONS COMMITTEE: 5-1, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Jones
NO VOTE RECORDED: Bates

ASSEMBLY FLOOR: 47-19, 5/25/22 - See last page for vote

SUBJECT: Occupational safety and health standards: heat illness: wildfire smoke

SOURCE: Author

DIGEST: This bill: (1) requires that the Division of Occupational Safety and Health revise, and submit to the standards board for consideration, the heat illness prevention and protections from wildfire smoke standards to increase the protection of specified workers exposed to heat and smoke in outdoor settings; (2) reduces the air quality index level at which respiratory protective equipment becomes mandatory in order to increase protections of outdoor workers exposed to wildfire smoke; and (4) requires employers to distribute prevention plan materials.

Senate Floor Amendments of 8/25/22 (1) strike provisions requiring an ultrahigh heat standard for heat in excess of 105 degrees Fahrenheit; (2) specify that the wildfire smoke standard revisions apply to farmworkers; and 3) strike the exemption of personnel directly supporting or engaging in wildland firefighting operations from the wildfire smoke standard as it is redundant because the existing standard already exempts these firefighters.

ANALYSIS:

Existing law:

1) Establishes the Division of Occupational Safety and Health (known as Cal/OSHA) within the Department of Industrial Relations (DIR) to, among other things, propose, administer, and enforce occupational safety and health standards. (Labor Code §175, §6300 et seq.)

2) Establishes the Occupational Safety and Health Standards Board within the DIR to adopt, amend, or repeal occupational safety and health standards and orders and requires the standards to be at least as effective as the federal standards. (Labor Code §140)

3) Authorizes citations to be issued to employers when Cal/OSHA has evidence that an employee was exposed to a hazard in violation of any requirement enforceable by the division, including the exposing, creating and controlling employer. (Labor Code §6400)

4) Prohibits a person from discharging or in any manner discriminating against any employee because the employee, among other things, reported a work-related fatality, injury, or illness, requested access to occupational injury or illness reports and records, or exercised any other rights protected by federal law, as specified. Affords an aggrieved worker with reinstatement and reimbursement rights, as specified. (Labor Code §6310)

5) Provides that a person who, after receiving notice to evacuate or leave, willfully and knowingly directs an employee to remain in, or enter, an area closed due to a menace to the public health or safety as set forth in Section 409.5 of the Penal Code shall be guilty of a misdemeanor. (Labor Code §6311.5)

Existing regulatory law:

6) Establishes the Maria Isabel Vasquez Jimenez heat illness standard (*Heat Illness Prevention in Outdoor Places of Employment standard*), applicable to all outdoor places of employment and requires, among other things, that employees have access to potable water and be encouraged to drink water frequently, that the employer have and maintain one or more areas with shade at all times while employees are present that are either open to the air or provided with ventilation or cooling, and that the employer implement high-heat procedures when the

temperature *equals or exceeds 95 degrees Fahrenheit*, as specified. (California Code of Regulations Title 8 §3395 & Labor Code §6721)

7) Establishes a standard for the protection of employees from wildfire smoke (*Protection from Wildfire Smoke*) when the Air Quality Index (AQI) for PM2.5 is 151 or greater and the employer should reasonably anticipate that employees may be exposed to wildfire smoke. The standard requires, among other things, an employer to control for harmful exposure by implementing: 1) engineering controls such as providing enclosed buildings where the air is filtered; 2) administrative controls such as relocating work to a location where the current AQI for PM2.5 is lower; and 3) control by respiratory protective equipment for voluntary use by employees where the current AQI for PM2.5 is equal to or greater than 151, but does not exceed 500. (CA Code of Regulations Title 8 §5141.1)

This bill:

1) Requires Cal/OSHA, before December 1, 2025, to submit to the Standards Board a rulemaking proposal to consider revising the heat illness prevention and protection from wildfire smoke standards. In preparing the proposals, requires Cal/OSHA to consider revising the standards as follows:

   a) Revise the Maria Isabel Vasquez Jimenez heat illness standard to:

      i) Require employers to distribute a copy of the Heat Illness Prevention Plan to all new employees upon hire and upon training required by the standard, but no more than twice per year to each employee.
      ii) Require employers to distribute a copy of the Heat Illness Prevention Plan to all employees at least once on an annual basis.

   b) With regard to farmworkers, revise the wildfire smoke standard, to reduce the AQI threshold for PM2.5 at which control by respiratory protective equipment becomes mandatory to, at a maximum, an AQI of 301 or more, or lower if determined by the division. For an AQI above 301, the employer need not implement fit testing and medical evaluations or otherwise implement requirements under existing standard.

2) Requires the Standards Board to review the proposed changes and consider adopting revised standards on or before December 1, 2025.

3) Requires Cal/OSHA to consider developing regulations, or revising existing regulations, related to additional protections such as acclimatization to higher temperatures, especially following an absence of a week or more from working in ultrahigh heat settings, including after an illness.

4) Defines "PM2.5" to mean solid particles and liquid droplets suspended in air, known as particulate matter, with an aerodynamic diameter of 2.5 micrometers or smaller.

Background

In California, every employer has a legal obligation to provide and maintain a safe and healthful workplace for their employees. Among other things, employers are required to have a written Injury and Illness Prevention Program (IIPP) with specific elements set forth in the Labor Code and Cal/OSHA regulations including, among other things, a system of communication and procedures for correcting unsafe and unhealthy work conditions. Cal/OSHA has a duty and authority to investigate a workplace for safety and welfare of employees, on its own motion or upon complaints. Additionally, Cal/OSHA has various standards that employers must abide by in order to render employment safe for workers.

The standard for wildfire smoke was adopted as emergency standards and became operative on 7/29/2019. The standard for heat illness prevention was also adopted as emergency standards and became operative on 8/22/2005.

Heat Illness Prevention and Protection Standard: For purposes of this bill, it is important to note that the heat illness prevention standard requires, when temperatures reach 95 degrees or above, the employer to take specific actions including to ensure that the employee takes a minimum ten minute net preventative cool-down rest period every two hours and monitoring for signs or symptoms heat illness. This bill would require the standard to include an ultrahigh heat standard for employees in outdoor places of employment for heat in excess of 105 degrees.

Protection from Wildfire Smoke Standard: The standard establishes a protection from wildfire smoke for instances when the Air Quality Index (AQI) for PM2.5 (particulate matter) is 151 or greater and the employer should reasonably anticipate that employees may be exposed to wildfire smoke. The standard requires specific controls by respiratory protective equipment for voluntary use by employees where the current AQI for PM2.5 is equal to or greater than 151, but does not exceed 500.

The standard finds an AQI level of 301 to 500 to be hazardous. If the AQI rises to 500 or above, respirators are required and employers must force employees to wear N95s.

[NOTE: Please see Senate Labor, Public Employment and Retirement Committee analysis on this bill for more background information on the two standards.]

Comments

Need for this bill? According to the author, "Heat-related deaths are on the rise for all workers, but especially farmworkers. Agriculture is an over $50 billion industry in California, providing more than 13% of total commodities and 40% of all organic production in the United States. A study in the American Journal of Industrial Medicine found that agriculture workers are 35 times more at risk for heat-related mortality than other industries. Studies also show that heat stress leads to farmworkers working fewer hours, which diminishes crop output. By 2030, it is estimated that total working hours lost because of extreme heat events will rise by 2.2%: a total of $2,400 billion. By threatening farmworkers' ability to grow and harvest California's crops, ultra-high heat poses an existential threat to the state and to the nation's food supply."

The author also argues notes that, "Worsening heat waves also affect the air we breathe. Ultra-high heat increases smog formation; exacerbates wildfire conditions that lead to smoke and further air pollution; and causes air masses to remain static, which further builds up smoke, dust, gases, and other industrial air pollution. The Air Quality Index (AQI) is a measure that runs from 0 to 500: the greater the value, the greater the level of air pollution. An AQI value between 1 to 150 indicates the air is "unhealthy for sensitive groups" but as this value rises above 200 this indicates the air is "very unhealthy" or "hazardous" for everyone Unhealthy air quality can cause serious health problems up to and including death. Pollution can irritate the respiratory system, reduce lung function, and cause feelings of chest tightness, wheezing, or shortness of breath."

Related/Prior Legislation

AB 1643 (R. Rivas, 2022) requires the Labor and Workforce Development Agency, on or before July 1, 2023, to establish an advisory committee to study the effects of heat on California's workers, businesses, and the economy.

AB 2076 (L. Rivas, 2022) establishes the Extreme Heat and Community Resilience Program to coordinate state efforts and support local and regional efforts to prevent or mitigate the impact of and public health risks of heat.

AB 2238 (L. Rivas, 2022) requires the CA Environmental Protection Agency, by January 1, 2024, to develop a statewide extreme heat ranking system in coordination with ICARP and the Department of Insurance, as provided.

AB 2420 (Arambula, 2022) requires the Department of Public Health, in consultation with subject matter experts, to review available literature on adverse effects of extreme heat on perinatal health, develop guidance for safe-conditions and health considerations for pregnant individuals and infant children.

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

According to the Senate Appropriations Committee, the Department of Industrial Relations (DIR) anticipates increased costs from the bill related to rulemaking and investigations/enforcement. The annual magnitude is unknown, but likely significant (special fund). Specifically, CalOSHA and DIR's Occupational Safety and Health Standards Board (OSHSB) would incur costs to revise and adopt new heat illness and wildfire smoke standards, which must undergo a standardized regulatory impact analysis (SRIA), potentially generating substantial workload.

SUPPORT: (Verified 8/26/22)

Breathe Support
California Environmental Voters
California Insurance Commissioner, Ricardo Lara
California Nurses for Environmental Health and Justice
California Water Service Company
Comite Civico del Valle
Communities for a Better Environment
East Yard Communities for Environmental Justice
La Cooperativa Campesina de California
Los Angeles Alliance for a New Economy
Los Angeles Neighborhood Land Trust
Neighborhood Legal Services of Los Angeles County
Prevention Institute
The Greenlining Institute
Union of Concerned Scientists

OPPOSITION: (Verified 8/26/22)

Agricultural Council of California
American Composites Manufacturers Association
American Pistachio Growers
Associated General Contractors
Associated Roofing Contractors
California Association of Sheet Metal and Air Conditioning Contractors, National
California Association of Winegrape Growers
California Attractions and Parks Association
California Cotton Ginners and Growers Association
California Farm Bureau Federation
California Food Processors
California Forestry Association
California Framing Contractors Association
California Landscape Contractors Association
California League of Food Producers
California Legislative Conference of the Plumbing, Heating and Piping Industry
California Outdoor Hospitality Association
California Railroads
California Restaurant Association
California Strawberry Commission
California Travel Association
National Electrical Contractors Association, California Chapters
National Federation of Independent Business
Nisei Farmers League
Northern California Allied Trades
PCI West – Chapter of the Precast/Prestressed Concrete Institute
Residential Contractors Association
Southern California Contractors Association
United Contractors
Western Agricultural Processors Association
Western Growers Association
Western Steel Council
Wall and Ceiling Alliance
Western Wall & Ceiling Contractors Association

ARGUMENTS IN SUPPORT: According to California Environmental Voters, "Many farmworkers are paid based on how much they harvest (a piece-rate pay system), which could lead to workers continuing to work during unsafe conditions while their bodies are telling them to stop. Pushing farmworkers' bodies through

strenuous outdoor activity for prolonged periods of time is dangerous in any elevated heat condition, even when temperatures do not meet California's regulated heat thresholds. As ultra-high heat days increase, California's current regulatory thresholds for employee protections – including access to shade, cool water, and cooling breaks – are inadequate."

ARGUMENTS IN OPPOSITION: A coalition of employer organizations, are opposed and write, "We are primarily opposed to AB 2243 because there is no demonstrated need for this bill. AB 2243's proposed changes to the regulations can already be achieved through the existing process provided in law whereby sponsors of this bill could petition the board directly for the amendments they seek. Notably, the petition process is very simple, and does not require any special legal expertise to begin. In addition, the petition process would involve expert review by health safety experts. To date, no such petition has been filed and neither has there been a health safety expert examination of this bill. In addition, both regulations covered by AB 2243 were relatively recently adopted, and do not need an update."

ASSEMBLY FLOOR: 47-19, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Cooper, Daly, Gipson, Gray, Grayson, Maienschein, Mayes, O'Donnell, Petrie-Norris, Blanca Rubio, Villapudua

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
8/26/22 15:47:32

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

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THIRD READING

Bill No: AB 2247
Author: Bloom (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-2, 6/22/22
AYES: Allen, Eggman, Gonzalez, Skinner, Stern
NOES: Bates, Dahle

SENATE APPROPRIATIONS COMMITTEE: 4-2, 8/11/22
AYES: Portantino, Bradford, Laird, Wieckowski
NOES: Bates, Jones
NO VOTE RECORDED: McGuire

ASSEMBLY FLOOR: 43-19, 5/26/22 - See last page for vote

SUBJECT: Perfluoroalkyl and polyfluoroalkyl substances (PFAS) and PFAS products and product components: publicly accessible data collection interface

SOURCE: California Association of Sanitation Agencies
Clean Water Action
Environmental Working Group

DIGEST: This bill requires, on or before July 1, 2025, a manufacturer of per- and polyfluoroalkyl substances (PFAS) or a product or product component containing intentionally added PFAS that is sold, offered for sale, or distributed into the state to register the PFAS or the product or product component containing intentionally added PFAS on the publicly accessible reporting platform created by the Department of Toxic Substances Control (DTSC) and the Interstate Chemicals Clearinghouse (ICC).

Senate Amendments of 8/25/22 delay the requirement to submit information to the database by a year to 2026, give the Department of Toxic Substances Control

(DTSC) further authorization to implement this bill, and clarify the acceptable methods for identifying a PFAS in the database.

ANALYSIS:

Existing law:

1) Requires, under the Safer Consumer Products statutes the Department of Toxic Substances Control (DTSC) to adopt regulations to establish a process to identify and prioritize chemicals or chemical ingredients in consumer products that may be considered chemicals of concern, as specified. (Health and Safety Code (HSC) § 25252)

2) Establishes the Safer Consumer Products (SCP) Program and requires DTSC to adopt regulations to establish a process to evaluate chemicals of concern in consumer products, and their potential alternatives, to determine how to best limit exposure or to reduce the level of hazard posed by a chemical of concern. (HSC § 25252 et seq.)

3) Authorizes DTSC to request information from product or chemical manufacturers, importers, assemblers, or retailers that it determines necessary to implement the SCP Program's framework regulations, via an informational call-in. (California Code of Regulations, title 22, section 69501.4(b))

4) Requires, under the California Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65), the Governor to publish a list of chemicals known to cause cancer or reproductive toxicity and to annually revise the list. The Office of Environmental Health Hazard Assessment (OEHHA) has listed perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS), which are members of the per- and polyfluoroalkyl substances (PFAS) class, as chemicals known to the state to cause developmental toxicity. (HSC § 25249.8)

5) Prohibits, on and after July 1, 2023, a person, including, but not limited to, a manufacturer, from selling or distributing in commerce in this state any new, not previously owned, juvenile product that contains regulated PFAS chemicals. (HSC § 108946)

6) Prohibits, commencing on January 1, 2023, a person from distributing, selling, or offering for sale in the state any food packaging that contains regulated PFAS. (HSC § 109000)

7) Authorizes the State Water Resources Control Board (State Water Board) to order a public water system to monitor for PFAS, requires community water systems to report detections, and where a detected level of these substances exceeds the response level, to take a water source out of use or provide a prescribed public notification. (HSC §116378)

This bill:

1) Defines, for the purposes of this legislation:

    a) "Perfluoroalkyl and polyfluoroalkyl substances" od "PFAS" as a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom;
    b) "Intentionally added PFAS" as PFAS that a manufacturer has intentionally added to a product, or its components or ingredients that have a functional or technical effect in the product. This includes PFAS components of intentionally added chemicals and PFAS that are intentional breakdown products of an added chemical that also have a functional or technical effect in the product;
    c) "Manufacturer" as:

        i) A person or entity who manufactures PFAS or imports PFAS into the state;
        ii) A person or entity who manufactures or imports a product or product component containing intentionally added PFAS, or whose name appears on the product label;
        iii) A person or entity for whom the PFAS or PFAS-containing product is manufactured or imported, as identified pursuant to the federal Fair Packaging and Labeling Act; and
        iv) Is not a state agency.

2) Requires DTSC to work with an existing multistate data collection entity that is used by other states and jurisdictions to implement, by January 1, 2025, a publicly accessible data collection interface that manufacturers shall use to report data on PFAS-containing products.

3) Authorizes DTSC to enter into any necessary contracts and promulgate necessary regulations to implement the collection interface. Such contracts are exempted from the requirements of the California State Contract Registry,

oversight from the Department of Technology, and other aspects of the Public Contract Code.

4) Requires, to the extent reasonable and feasible, the data collection interface shall streamline and facilitate data reporting required with similar data reporting required by other states and jurisdictions.

5) Authorizes DTSC to provide technical assistance to manufacturers in complying with this requirement.

6) Requires on July 1, 2026 or on or before July 1 of each year thereafter, a manufacturer of PFAS or of a product or product component containing intentionally added PFAS that is sold, offered for sale, distributed, or offered for promotional purposes in the state during the prior calendar year, to register the product in the data collection interface along with:

    a) The name and type of product or component;
    b) The universal product code of the product or component;
    c) The purpose or function for which intentionally added PFAS are used in the product or product component;
    d) The identity and amount of all PFAS compounds in the product or product components. The identity can be reported either as the Chemical Abstracts Service Registry number if known, or the brand name of the formulation that contains PFAS and the name of the formulation manufacturer. The amount of PFAS shall be reported as the amount by weight of each compound, if known, or the total organic fluorine in the product or component;
    e) The amount or numbers of the product or component sold, delivered, or imported into the state; and
    f) The name and address of the manufacturer and the name, address, and phone number of a contact person for the manufacturer.

7) Allows that if two or more entities qualify as a manufacturer of the same PFAS-containing product, only one entity shall be responsible for registering the product. The entities may decide which entity will provide the required information.

8) Specifies that violation of these requirements is subject to civil penalties and not subject to criminal penalties.

9) Exempts from this requirement any product that is regulated as a drug, medical device, dietary supplement, or medical equipment regulated by the U.S. Food and Drug Administration and any medical related products administered to or used to treat animals.

Background

1) *Perfluoroalkyl and polyfluoroalkyl substances (PFAS).* PFAS are a class of man-made chemical compounds that contain multiple fluorine atoms bonded to a single carbon atom. These carbon-fluorine bonds are extremely stable and chemically unreactive, which makes PFAS very useful in creating long-lasting and resistant products. As such PFAS have been produced and used in consumer products since the 1940s, often as surface coatings to repel water, dirt, oil, and grease. They have been used in food packaging, stain- and water-repellent fabrics, nonstick products such as Teflon, and in fire-fighting foams.

   Unfortunately, PFAS' stability also means that these compounds are resistant to being metabolized by organisms or otherwise degraded and so have slowly built up in the environment. Their chemical properties also make many PFAS highly mobile – able to travel long distances, move through soil, seep into groundwater, or be carried through the air far from their point of production or use. These factors combined with their widespread use have made PFAS so ubiquitous that almost every person on Earth has been exposed to PFAS and scientists have found these toxins in the blood of nearly all people tested.

2) *PFAS, don't you know that you're toxic?* Several PFAS have been shown to bioaccumulate significantly in animals or plants and emerging evidence points to their phytotoxicity, aquatic toxicity, and terrestrial ecotoxicity. The Agency for Toxic Substances and Disease Registry (ATSDR) and the US EPA developed the toxicologic profile of 14 PFAS chemicals. Based on a number of factors, including the consistency of findings across studies, the available epidemiology studies suggest associations between perfluoroalkyl exposure and several adverse health effects, including liver damage, increased risk of thyroid disease, decreased antibody response to vaccines, increased risk of asthma, risk of decreased fertility, and small decreases in birth weight.

3) *PFAS are a diverse class of chemical compounds*. Because PFAS have been so industrially useful, many different types of PFAS have been created. As of September 2020, more than 9,000 PFAS chemicals were included in the United States Environmental Protection Agency's (U.S. EPA's) Master List of PFAS Substances. Each one has variations in their chemical properties, but all share a

resistance to chemical reactivity and to environmental and biological degradation. Perfluorooctanesulfonic acid (PFOS), used to create Teflon, and perfluorooctanoic acid (PFOA), previously used in Scotchgard, have been the most extensively studied.

Because of extensive research demonstrating the health risks of these PFAS have been phased out of production and replaced with new PFAS touted as safer alternatives based on the idea that they linger for a shorter time in human bodies. Unfortunately, further research has shown that many of these alternatives are associated with similar adverse health effects as the original PFAS and can travel even more easily in the environment.

4) *To meaningfully regulate PFAS they must be treated as a chemical class*. Performing a complete assessment of the health impacts of all 9,000 PFAS is impractical. As such, the Department of Toxic Substances Control (DTSC) has adopted a rationale for regulating PFAS chemicals as a class, concluding, "it is both ineffective and impractical to regulate this complex class of chemicals with a piecemeal approach." This rationale was presented in the February, 2021, Environmental Health Perspectives article, "Regulating PFAS as a Chemical Class under the California Safer Consumer Products Program." The authors of the article state, "The widespread use, large number, and diverse chemical structures of PFAS pose challenges to any sufficiently protective regulation, emissions reduction, and remediation at contaminated sites. Regulating only a subset of PFAS has led to their replacement with other members of the class with similar hazards, that is, regrettable substitutions… Regulating PFAS as a class is thus logical, necessary, and forward-thinking."

5) *The Interstate Chemicals Clearinghouse (ICC).* The ICC is an association of state, local, and tribal governments that promotes a clean environment, healthy communities, and a vital economy through the development and use of safer chemicals and products. The goals of the ICC are to: avoid duplication and enhance efficiency and effectiveness of agency initiatives on chemicals through collaboration and coordination; build governmental capacity to identify and promote safer chemicals and products; and, ensure that agencies, businesses, and the public have ready access to high quality and authoritative chemicals data, information, and assessment methods.

One of the functions of the ICC is sharing data and information on use, hazard, exposure, and alternatives to chemicals. They maintain a High Priority Chemicals Data System (HPCDS); an online platform that supports reporting

of information on the presence of chemicals of concern in children's products required by the Oregon and Washington. They also maintain a searchable online list of candidate chemicals that DTSC uses to identify priority products for regulation in California.

Comments

1) *Purpose of Bill.* According to the author, "PFAS are harmful to the health and wellbeing of all Californians. It's unconscionable that PFAS are polluting our drinking water systems and impacting some of our most vulnerable communities. AB 2247 will help us accurately identify how much PFAS is coming into the State of California and will enable us to explore how best to mitigate its harmful impacts. Without this information, we cannot take meaningful steps toward protecting the health of Californians and our environment in the long-term."

2) *Will it be possible for all businesses to comply?* Opponents to the bill have raised concerns that as California cannot control out-of-state suppliers of components, they may not be able to obtain this information from members of their supply chain. A provider of a component could refuse, possibly on the basis of trade secrets, and the Californian manufacturer or importer will be in violation with little recourse to access the information. In this case the bill provides an option to instead provide the amount of organic fluorine in the product, which can serve as a very rough auxiliary for the potential for the compound to persist due to the high stability of fluorine-carbon bonds, without revealing proprietary information. However testing a component to determine the total organic fluorine levels can cost thousands of dollars, which may be prohibitively expensive for many smaller businesses. Small businesses also will likely face challenges in dealing with the regulatory burden of tracing the full complicated supply chain for any multi-component products, especially as they will likely have less leverage in contract negotiations to obtain required information from their suppliers.

3) *It is important to monitor "safe" products.* Several groups in opposition to this bill are seeking exemptions under the arguments that their products are already well-regulated or are unlikely to result in direct exposure to humans due to being installed in inaccessible components. However the focus of the reporting in this bill is not to address the potential for direct exposure, it is to understand and trace the source of PFAs that accumulate in the environment. While PFAS in certain products may pose little to no health risk while in use, eventually those products will make their way to landfills or other disposal sites. They will

break down over time and the highly mobile PFAS will make their ways into the broader environment. Being able to track where the PFAS comes from is essential to developing policies to address their spread, such as collection and disposal programs for particularly problematic sources.

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

According to the Senate Appropriations Committee:

- DTSC estimates one-time costs of $2 million (General Fund) for the creation of the new reporting system. Staff notes that the bill could also generate cost pressures of an unknown amount (General Fund) to operate and maintain the reporting system

SUPPORT: (Verified 8/25/22)

California Association of Sanitation Agencies (co-source)
Clean Water Action (co-source)
Environmental Working Group (co-source)
Association of California Water Agencies
Bay Area Biosolids Coalition
California Municipal Utilities Association
California Special Districts Association
Camarillo Sanitary District
Central Contra Costa Sanitary District
City of Camarillo
City of Roseville
City of Sacramento Department of Utilities
City of Thousand Oaks
Consumer Federation of California
Cupertino Sanitary District
East Bay Municipal Utility District
Eastern Municipal Water District
Elsinore Valley Municipal Water District
Encina Wastewater Authority
League of California Cities
Leucadia Wastewater District
Livermore-Amador Valley Water Management Agency
Los Angeles County Sanitation Districts
Metropolitan Water District of Southern California
Mt. View Sanitary District

Novato Sanitary District
Olivenhain Municipal Water District
Orange County Sanitation District
Oro Loma Sanitary District
Republic Services - Western Region
Santa Clara Valley Water District
Sedron Technologies, LLC
Stege Sanitary District
Truckee Sanitary District
Union Sanitary District
Upper San Gabriel Valley Municipal Water District
Valley Sanitary District
West County Wastewater District

OPPOSITION: (Verified 8/25/22)

Advanced Medical Technology Association
Air-Conditioning Heating and Refrigeration Institute
Alliance for Automotive Innovation
American Apparel & Footwear Association
American Chemistry Council
American Coatings Association
American Forest & Paper Association
Animal Health Institute
Association of Home Appliance Manufacturers
Biocom California
California Chamber of Commerce
California Manufacturers & Technology Association
Chemical Industry Council of California
Consumer Technology Association
Fluid Sealing Association
Household and Commercial Products Association
Huntsman Corporation
Industrial Environmental Association
Juvenile Products Manufacturers Association
National Association of Chemical Distributors
National Council of Textile Organizations
National Electrical Manufacturers Association
Pine Chemicals Association International
Plastics Industry Association

PRBA - the Rechargeable Battery Association
Rockwell Automation
Semi
The Toy Association
Truck and Engine Manufacturers Association

ARGUMENTS IN SUPPORT: According to the sponsors of the bill, "PFAS are among the most persistent toxic compounds in existence, contaminating everything from drinking water to food and, because of their grease and water proof qualities are used widely in consumer products, such as food packaging, personal care products, and textiles, as well as industrial products and processes. They are found in the blood of virtually everyone on earth, including newborn babies. Very low doses of PFAS chemicals in drinking water have been linked to suppression of the immune system, interference with vaccines, and are associated with an elevated risk of cancer, increased cholesterol, and reproductive and developmental harms, among other serious health concerns.

"While we know that some products contain PFAS, we don't know how PFAS is being used throughout the marketplace or in industrial processes. Such knowledge is key to ensuring that our state and local regulators can manage PFAS pollution, implement meaningful source control, and ensure that the public isn't unnecessarily exposed to the chemicals…

"Therefore, it is critical for the state and the public to understand how PFAS chemicals are used and how much of the chemicals are imported into California. AB 2247 will ensure that manufacturers have to report their PFAS use to the state, and the bill will create a modest, but straightforward, method for the state to manage this information. This is a key first step to understanding and ultimately managing PFAS contamination in California.

ARGUMENTS IN OPPOSITION: According to the coalition of industry groups opposed to this bill, "Collectively, we support the responsible production, use and management of fluorinated substances, including regulatory requirements that are protective of human health and the environment, taking into consideration the diversity of physical and chemical properties and the environmental and health profiles of these substances.

"With respect to AB 2247, we have several concerns including:

- An overly broad definition of PFAS that does not consider differing health/safety profiles, uses or potential for exposure.

- Overlap and redundancy with new PFAS reporting requirements underway at the U.S. Environmental Protection Agency (USEPA).
- Ability for the Dept. of Toxic Substances Control (DTSC) to address these types of issues under existing authority and the potential for expanded authority under legislation currently moving in the Legislature.
- Lack of clarity on how this information will presented to the public to ensure information is presented in an unbiased, scientifically sound manner that does not cause unnecessary concern.
- Lack of any confidential business information/trade secret protections.
- Impractical implementation timelines.

"For these reasons, we must respectfully oppose AB 2247. We look forward to continuing to engage on this important issue."

ASSEMBLY FLOOR: 43-19, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Bryan, Calderon, Carrillo, Cervantes, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Mayes, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel
NO VOTE RECORDED: Berman, Boerner Horvath, Mia Bonta, Cooley, Cooper, Daly, Gray, Grayson, O'Donnell, Ramos, Rodriguez, Blanca Rubio, Salas, Villapudua, Waldron, Wilson

Prepared by: Jacob O'Connor / E.Q. / (916) 651-4108
8/26/22 15:47:33

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

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THIRD READING

Bill No: AB 2248
Author: Eduardo Garcia (D) and Ward (D), et al.
Amended: 8/11/22 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 7-0, 6/29/22
AYES: Allen, Bates, Dahle, McGuire, Skinner, Stern, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 74-0, 5/23/22 - See last page for vote

SUBJECT: Water quality: California-Mexico cross-border rivers

SOURCE: Author

DIGEST: This bill provides $100 million to the State Water Resources Control Board (Water Board) from the General Fund, upon appropriation by the Legislature, to address water quality problems arising in California-Mexico cross-border rivers.

ANALYSIS:

Existing law:

1) Establishes the Porter-Cologne Water Quality Control Act, which prohibits the discharge of pollutants to surface waters unless the discharger obtains a permit from the State Water Board. (Water Code § 1300 et seq.)

2) Requires the California-Mexico Border Relations Council (Council) to establish the New River Water Quality, Public Health, and River Parkway Development Program to coordinate funding for, and the implementation of the strategic plan developed by the Council. (Public Resources Code § 71103.6)

This bill:

1) Makes $100 million available from the General Fund, upon appropriation by the Legislature in the annual Budget Act or another statute, to the Water Board for grants and direct expenditures to address water quality problems arising in California-Mexico cross-border rivers.

2) Requires the funding to be available for purposes consistent with the New River Water Quality, Public Health, and River Parkway Development Program and water quality projects for the Tijuana River.

3) Makes 5% of the funding available for the administrative costs of the Water Board in implementing these provisions and 5% available for the costs of the Office of the Attorney General in enforcing these provisions.

4) Requires the Water Board, in consultation with the California Environmental Protection Agency, the San Diego Regional Water Quality Control Board, and the Colorado River Basin Regional Water Quality Control Board, to administer the funding, as specified.

5) Requires expenditures to be consistent with the work of the California Environmental Protection Agency Border Affairs Program, and requires priority for the funding to be given to projects that have funding committed by the United States, the Republic of Mexico, the State of Baja California, or the City of Tijuana or Mexicali.

6) Authorizes grant funding to be conditioned on enforceability and accountability mechanisms agreed upon by the Water Board and the recipient, as prescribed, and authorizes funding to be provided for activities or projects in the State of Baja California under certain circumstances.

7) Requires the Water Board and the California Environmental Protection Agency to notify the leadership office in each house of the Legislature on cross-border collaboration and the expenditure of the funding.

Background

1) *Tijuana River Watershed*. The Tijuana River Watershed is an approximately 1,700-square mile area that straddles the U.S./Mexico border. While nearly three-quarters of the watershed are located in Mexico, it drains to the Pacific Ocean through the 8-square mile Tijuana River Valley (Valley) north of the

border. The Valley is home to tidally flushed wetland, riparian, and upland habitats supporting a broad range of organisms, including threatened and endangered species, and includes a number of federally-listed historical and archaeological sites.

Land uses in the watershed are diverse, from largely undeveloped open space in the upper watershed to highly-urbanized, residential, commercial, military, and industrial areas in the lower watershed. Rapid urbanization has occurred over the past several decades, most dramatically in the city of Tijuana where more than 2.7 million people currently reside. Several large dams (Barrett and Morena in the U.S., and Rodríguez and El Carrizo in Mexico) control a large majority of the surface water flow in the watershed. While these dams provide reservoirs of potable water to support residents and associated infrastructure on both sides of the border, they also serve as traps for the downstream movement of sediment and trash to the lower watershed. Therefore, the sediment and trash produced in the 462-square mile area downstream of the dams are responsible for impacts to the Valley.

While significant improvements in wastewater treatment have, in recent years, improved water quality on both sides of the border, stormwater flows continue to bring substantial amounts of sediment, trash, and other contaminants into the Valley. The sediment and trash pollutants cause water quality impairments, threaten life and property from flooding, degrade valuable habitats, and impact recreational opportunities for residents and visitors.

2) I*nternational Boundary & Water Commission (IBWC).* Bi-national concerns about Tijuana River water quality date back to 1934, when the United States and Mexican governments instructed the International Boundary Commission (predecessor to IBWC) to prepare a report on the Tijuana sewage problem. When the United States and Mexico signed the Water Treaty of 1944, Article III made the use of cross-border waters subject to "sanitary measures or works." The two governments also agreed to give preferential attention to the solution of all border sanitation problems.

In light of continued cross-border sanitation issues, the U.S. and Mexico created a binational interagency "Clean Water Partnership." In 1990, IBWC authorized construction of a treatment plant on the Tijuana River, north of the border, called the South Bay International Water Treatment Plant. This treatment plant has current capability of treating 25 million gallons per day (MGD), but has an expansion capability of up to 100 MGD. Once treated,

water from the plant flows through a 4.5-mile, 11-foot pipe leading to the South Bay Ocean Outfall.

3) *Tijuana River Recovery Team.* The Tijuana River Recovery Team (Recovery Team) is a collaboration of more than 30 federal, state, and local agencies and other interested parties from both sides of the U.S./Mexico border focused on addressing sediment, trash, and associated environmental issues. The mission of the Recovery Team is to bring together the governmental, administrative, regulatory, and funding agencies in tandem with advice from the scientific community, the environmental community, and affected stakeholders to protect the Valley from future accumulations of trash and sediment, identify, remove, recycle or dispose of existing trash and sediment, and restore the Tijuana River floodplain to a balanced wetland ecosystem.

4) *Recent Developments on the Tijuana River*. Water quality in the Tijuana River has deteriorated significantly in recent years. As the San Diego Union-Tribune reported last year, Tijuana River water pollution required closing of beaches north of the border on 295 days in 2020. Deteriorating water quality has led to both conflict and increased effort to address water quality in the Tijuana River.

5) *New River*. The New River is a transboundary river that flows from Mexicali, Mexico into the City of Calexico and drains into the Salton Sea. The New River's pollution problem dates back to the late 1940s. By the 1970's, the New River had acquired the reputation for being one of the most polluted rivers in the U.S., with many of the pollutants posing serious human health hazards. Pollution sources have included untreated municipal sewage, trash, treated and untreated industrial discharges, treated effluent from municipal wastewater treatment plants, urban storm drainage and a variety of agricultural irrigation runoff on both sides of the border.

6) *Binational Technical Committee*. As part of the US/Mexico Water Treaty of 1944, the Binational Technical Committee (BTC) was established in 1994. The IBWC established teams of technical personnel and technical advisers from agencies of each country with expertise in wastewater infrastructure. The BTC serves to help identify pollution problems, oversees development and implementation of the binational sanitation projects agreed upon by Mexico and the U.S., and makes project and policy recommendations to address New River pollution from Mexico.

7) *Pollution problems in Mexicali*. A series of quick fix sanitation projects were implemented in various locations in Mexicali in 1992 and 2007 as part of the US/Mexico Water Treaty. These projects focused on improvements to the collection system and rehabilitation of pumping plants in 1992, and the construction of a new wastewater treatment plant in 2007. Pollution worsened due to the rapid population growth and industrial development in Mexicali. The projects implemented back in 2007 did not consider the boom in population and the capacity of the wastewater treatment plants wasn't large enough.

   In 2013, new problems began to emerge in Mexicali due to collection system pipes aging, inadequate oversight of operations and maintenance, and continued sewage spills. Improvements needed in Mexicali include: rehabilitation of the wastewater treatment plants and the sewage collection system.

   The failing sanitation system in Mexicali continues to discharge raw sewage and other waste into the New River, which in turn threatens the health of Calexico residents, harms wildlife and the ecosystem, and undermines Salton Sea management and restoration efforts. The proposed improvements, including installing a trash screen, piping the dirty water around the city, and pumping a portion of the treated water back into the channel to restore some of the flow, are intended to protect Calexico residents and address threats to ecosystems.

8) *New River Improvement Project Strategic Plan.* Other efforts to help address the New River pollution at the border include the New River Improvement Project Strategic Plan. AB 1079 (Perez, 2009), required the California-Mexico Border Relations Council (IBWC) to create a strategic plan to study, monitor, remediate and enhance the New River's water quality to protect human health. One of the strategies proposed is the New River Improvement Project, Calexico. The design of the New River improvement Project essentially reroutes the New River over a two mile stretch to minimize the community's exposure to the polluted river. Unlike the “fixes” to Mexicali’s sanitation system that were completed by 2007 and funded by both countries, the New River Improvement Project currently is a California undertaking.

9) *California Legislature’s Work on Border River Water Quality.* The California Legislature has been considering and addressing water quality in its border rivers (Tijuana River and New River) for the last 20 years, as water quality issues have evolved. It has passed bills to require state agency projects to

improve water quality and has held informational hearings on the work of all those who strive to improve border river water quality.

The Legislature's budget committees have reviewed programs and projects on border river water quality. State Budgets since 2017 have included appropriations for border river water quality as follows:

a) 2017: Reappropriated $2.1 million from a 2014 California Wildlife, Coastal and Park Land Conservation Fund of 1988 for acquisition of lands in the Tijuana River Valley;
b) 2019: Appropriated $15 million for Tijuana River pollution control;
c) 2020: Appropriated $18 million from the General Fund and $10 million from Proposition 68 water bond funds for the New River Project; and
d) 2021: Appropriated $20 million to improve water quality in border rivers.
e) 2022: Appropriation of $15 million for Border rivers cleanup (pending).

10) *U.S.-Mexico-Canada Agreement*. When Congress approved the US-Mexico-Canada Agreement (USMCA) in 2019, California Congressional representatives succeeded in adding $300 million to identify infrastructure solutions to address significant negative impacts to water quality, public health, and the environment of water pollution in cross-border rivers. In 2020, the US government committed the funding to the US EPA to be used to address Tijuana River water quality problems. In November 2021, US Ambassador Ken Salazar and US EPA Administrator Michael S. Regan met with Mexican officials and stakeholders at the Tijuana border to discuss the results of the US EPA's alternatives analysis for solutions to Tijuana River water quality issues. The results outlined a plan to address water quality on both sides of the border, throughout the watershed. The plan identifies an estimated capital cost of approximately $627 million and approximately $25 million for operations and maintenance.

Comments

1) *Purpose of this bill.* According to the author, "In order to advance on the commitments the state has made and build off of the funding we have already committed to the Tijuana and New Rivers, we need to provide a substantive commitment to improving the water quality coming from our border region into our communities for years to come. While we will continue to work with our partners in Mexico, we need to ensure that we are not jeopardizing public health and are able to fully tackle the problem through infrastructure investments in our own backyard."

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

According to the Senate Appropriations Committee:

- Cost pressure of $100 million (General Fund) for the Legislature to provide an appropriation to the Water Board. Of this amount, the Water Board estimates costs of up to $2.475 million for State Water Board and Regional Water Board efforts to administrate the fund and provide project oversight.
- The Department of Justice (DOJ) indicates that its costs are unknown but could potentially be significant (General Fund). The Department anticipates there may be unfunded enforcement-related costs (above the 5% earmarked for cost reimbursement to the Department) pertaining to the outlined funding agreements. Actual DOJ costs would depend on several factors, including the number and complexity of resulting funding agreements the Department would need to enforce, the nature of the legal dispute at issue, and the involved parties.

SUPPORT: (Verified 8/11/22)

California State Pipe Trades Council
Californians Against Waste
City of Chula Vista, Mayor Casillas Salas
City of Coronado, Mayor Richard Bailey
City of Imperial Beach
City of National City, Mayor Alejandra Sotelo-Solis
City of San Diego
County of San Diego
Imperial Irrigation District
Outdoor Outreach
Port of San Diego
Surfrider Foundation

OPPOSITION: (Verified 8/11/22)

None received

ARGUMENTS IN SUPPORT: According to the Surfrider Foundation, "Surfrider is in strong support of AB 2248 because it addresses water quality in California Mexico Rivers which affects public health, coastal recreation, and unique wetland habitat in California and Baja. Beaches in San Diego are closed more than two thirds of the year regularly (including in 2021) as they are considered unsafe for recreating by Environmental Protection Agency standards for 'safe' coastal recreation. Extreme pollution in places like Goat Canyon mean that areas near

border rivers are so toxic that our volunteers used to wear protective suits to conduct cleanups and now often don't even try to clean these areas because volunteers were frequently getting sick. Additionally, U.S. Border Patrol and Navy conduct patrols and training in contaminated environments that put agents and sailors at risk. We urge the Assembly to pass AB 2248 in advance of public health and coastal recreation needs near the border."

ASSEMBLY FLOOR: 74-0, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Mia Bonta, O'Donnell, Blanca Rubio

Prepared by: Gabrielle Meindl / E.Q. / (916) 651-4108
8/15/22 13:10:10

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

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THIRD READING

Bill No: AB 2268
Author: Gray (D), et al.
Amended: 8/25/22 in Senate
Vote: 27 - Urgency

SENATE JUDICIARY COMMITTEE: 10-0, 6/21/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Laird, McGuire, Stern, Wiener
NO VOTE RECORDED: Jones

SENATE APPROPRIATIONS COMMITTEE: 5-0, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NO VOTE RECORDED: Bates, Jones

ASSEMBLY FLOOR: 59-0, 5/23/22 - See last page for vote

SUBJECT: Charles James Ogletree, Jr. Courthouse

SOURCE: Merced County NAACP
NAACP California Hawaii State Conference

DIGEST: This bill names the Merced County main courthouse of the Superior Court of California as the Charles James Ogletree, Jr. Courthouse. This bill contains an urgency clause.

Senate Floor Amendments of 8/25/22 add an urgency clause and co-authors.

ANALYSIS:

Existing law:

1) Grants counties designated authorities and responsibilities with regard to court facilities located in those counties, including managing shared-use buildings the title to which is held by counties. (Gov. Code § 70393.)

2) Grants the Judicial Council full responsibility, jurisdiction, control, and authority over trial court facilities the title to which is held by the State. (Gov. Code § 70391 (a).)

This bill names the Merced County main courthouse of the Superior Court of California as the Charles James Ogletree, Jr. Courthouse and includes findings and declarations about the remarkable life of Charles James Ogletree, Jr. and his extraordinary contributions to California and the United States. This bill contains an urgency clause.

Background

This bill honors the life and work of Charles James Ogletree, Jr., by naming the main courthouse in Merced County after him. This bill details the incredible impact Professor Ogletree has made to our state and nation. A bill is necessary to effectuate naming the courthouse after Professor Ogletree because the current Judicial Council courthouse naming policy prohibits naming courthouses after people who are still alive. This bill is sponsored by the Merced County NAACP and NAACP California Hawaii State Conference; supported by the California Legislative Black Caucus, and Pamela A. Ogletree; and has no registered opposition.

The Judicial Council's Courthouse Naming Policy was adopted in 2009 and prohibits the naming of a courthouse after a person who has not been deceased for 10 years. The policy specifies that Courthouses are rarely named after people. However, a "courthouse may be named after a deceased person" if the "person made recognizable, significant contributions to the state or national justice system" and the person has been "deceased a minimum of 10 years." The Legislature does have the authority to rename courthouses without Judicial Council's consent. However, that authority must be exercised through a bill rather than a resolution because of the authority the Legislature vested in the judicial branch through the Trial Court Facilities Act. (Gov. Code § 70391.)

Comments

According to the author:

> From humble beginnings in his hometown of Merced, Professor Ogletree went on to earn a Master's Degree from Stanford and his Juris Doctor from Harvard before embarking on a prolific career focused on the advancement of civil rights, racial justice, and social tolerance. In addition to his influential writings

as a legal scholar, Professor Ogletree inspired generations of law students as a professor at Harvard, including former President and First Lady Barack and Michelle Obama. As a public defender and civil rights attorney, Professor Ogletree notably represented survivors of the 1921 Tulsa Race Massacre and acted as legal counsel to Professor Anita Hill during the Clarence Thomas Senate confirmation hearings. Professor Ogletree received countless prestigious awards throughout his career including being named one of the 100 Most Influential Lawyers in America by the National Law Journal. Both Harvard Law School and UC Merced have established endowed positions named in his honor.

Professor Ogletree founded The Charles Hamilton Houston Institute for Race and Justice in honor of the legendary civil rights lawyer and mentor to such influential figures as Thurgood Marshal and Oliver Hill. He has been a leader pushing the national conversation on race and justice forward including as an author of such works as Life without Parole: America's New Death Penalty, The Presumption of Guilt: The Arrest of Henry Louis Gate, Jr. and Race, Class, and Crime in America, and The Road to Abolition: The Future of Capital Punishment in the United States.

As one of Merced County's proudest native sons who has made incredible contributions towards the advancement of racial justice in the American legal system, there is no more deserving individual on whom to bestow this honor than Professor Ogletree. As the criminal justice system reexamines practices that have resulted in the over-incarceration of minority communities, and in particular black men, it would be fitting for more judges to conduct their work in facilities named for leaders like Professor Ogletree.

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

According to the Senate Appropriations Committee:

- The Judicial Council reports one-time costs of approximately $175,000 to support the acquisition and installation of appropriate signage to reflect the courthouse name change (Special Fund – State Court Facilities Construction Fund,* General Fund).

  *Structurally imbalanced.

SUPPORT: (Verified 8/25/22)

Merced County NAACP (co-source)

NAACP California Hawaii State Conference (co-source)
California Legislative Black Caucus
One individual

OPPOSITION: (Verified 8/25/22)

None received

ASSEMBLY FLOOR: 59-0, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Davies, Flora, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Bigelow, Mia Bonta, Chen, Choi, Megan Dahle, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, O'Donnell, Patterson, Blanca Rubio, Seyarto, Smith, Valladares, Voepel

Prepared by: Margie Estrada / JUD. / (916) 651-4113
8/26/22 15:47:33

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

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THIRD READING

Bill No: AB 2269
Author: Grayson (D), et al.
Amended: 8/22/22 in Senate
Vote: 21

SENATE BANKING & F.I. COMMITTEE: 6-0, 6/22/22
AYES: Limón, Bradford, Caballero, Durazo, Min, Portantino
NO VOTE RECORDED: Ochoa Bogh, Dahle, Hueso

SENATE JUDICIARY COMMITTEE: 9-1, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, McGuire, Stern, Wieckowski, Wiener
NOES: Jones
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: 5-1, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Jones
NO VOTE RECORDED: Bates

ASSEMBLY FLOOR: 65-0, 5/12/22 (Consent) - See last page for vote

SUBJECT: Digital financial asset businesses: regulation

SOURCE: Consumer Federation of California

DIGEST: This bill establishes a licensing and regulatory framework, administered by the Department of Financial Protection and Innovation (DFPI) for digital financial asset business activity, as specified.

Senate Floor Amendments of 8/22/22 make clarifying and technical changes by (1) extending licensure deadline from January 1, 2024, to January 1, 2025; (2) sunsetting the prohibition on certain types of unbacked stablecoins on January 1, 2028, which turns this prohibition into a temporary moratorium; and clarifiying the application of California Financial Information Privacy Act (Cal FIPA) to digital

financial business activity. (Note: AB 2269 was previously amended to apply CalFIPA to AB 2269 licensees, this amendment just adds additional clarification.)

ANALYSIS:

Existing law:

1) Prohibits, pursuant to the Money Transmission Act, a person from engaging in the business of money transmission, as defined, without a license from the Commissioner of Financial Protection and Innovation.

2) Regulates, pursuant to the California Financial Information Privacy Act, the disclosure by a financial institution, as defined, of a consumer's nonpublic personal information.

This bill:

1) Establishes the Digital Financial Assets Law to be administered by DFPI.

2) Exempts from the new division activities covered by existing federal and state laws related to securities and electronic fund transfers; banks and credit unions; and persons providing only specified computing, network, data storage or security services, and persons whose digital financial asset business activity is reasonably expected to be valued at $50,000 or less, among other specified exemptions.

3) Prohibits a person from engaging in digital financial asset business activity without a license with DFPI, as specified.

4) Establishes requirements of an application for licensure, authorizes DFPI to charge a fee to cover the reasonable costs of regulation, and requires DFPI to investigate specified characteristics of the applicant before making a decision on the application.

5) Requires a licensee to maintain a surety bond or trust account for the benefit of its customers in a form and amount as determined by DFPI for the protection of the licensee's customers, as specified.

6) Requires a licensee to maintain capital in an amount and form as DFPI determines is sufficient to ensure the financial integrity of the licensee and its ongoing operations based on an assessment of specific risks applicable to the licensee, as specified.

7) Establishes a process for a licensee to renew its license on an annual basis.

8) Authorizes DFPI to adopt rules necessary to implement the division and issue guidance as appropriate.

9) Authorizes DFPI to conduct any time and from time to time, examine the business and any office, within or outside this state, of any licensee, registrant, or any agent of a licensee or registrant in order to ascertain whether the business is being conducted in a lawful manner and whether all digital financial asset business activity is properly accounted for.

10) Requires a licensee to file with DFPI a report related to a material change in information provided in the application for licensure, a material change in the licensee's digital financial asset business activity, or a change of an executive officer, responsible individual, or person in control of the licensee.

11) Provides specified applicable rules in determining whether a person has control over a licensee; requires that, at least 30 days prior to a proposed change in control of a licensee, the proposed person to be in control submit an application with information required by this division for an application for licensure, as applicable; and requires DFPI to decide whether to approve the application, as specified.

12) Provides a process similar to an application related to a proposed change in control for an application of a proposed merger or consolidation of a licensee with another person.

13) Defines "enforcement measure" as an action that contains, but is not limited to the following: (a) suspend or revoke a license; (b) order a person to cease and desist from doing digital financial asset business activity; and (c) request the court to appoint a receiver for the assets of a person doing digital financial asset business activity.

14) Authorizes DFPI to take an enforcement measure against a person as specified.

15) Specifies processes related to enforcement actions, including a person's rights to notice and opportunity for a hearing as appropriate, when a revocation of a license is effective, and when a suspension of a license is effective.

16) Authorizes DFPI to enter into a consent order with a person regarding an enforcement measure and permits the order to provide that it does not constitute an admission of fact.

17) States that the chapter of the bill related to enforcement does not provide a private right of action, but does not preclude an action by a person to enforce rights related to property interests described in #22 of this section.

18) Requires a licensee to provide disclosures, as specified, to its customers. Information required to be disclosed includes but is not limited to the following, as specified: (a) a schedule of fees and charges; (b) whether the product or service provided is covered by insurance or other guarantee from loss; (c) a description of specified terms related to their customers' rights and responsibilities and processes associated with transfers or exchanges; (d) that no digital financial asset is currently recognized as legal tender by California or the United States; and (e) a list of instances over the past 12 months when the licensee's service was unavailable to 10,000 or more customers due to a service outage, as specified.

19) Requires a licensee to provide a transaction confirmation record, as specified.

20) Provides that a licensee may not exchange, transfer, or store a digital financial asset or engaging in digital financial asset administration, whether directly or through an agreement with a digital financial asset control services vendor, if that digital financial asset is a stablecoin unless the issuer of the stablecoin is licensed pursuant to this bill or is a bank and the issuer at all times owns eligible securities having an aggregate market value calculated in accordance with generally accepted accounting principles of not less than the amount of its outstanding stablecoins issued or sold in the United States.

21) Amends definition of "financial institution" in the California Financial Information Privacy Act to include licenses under this division.

22) Provides a definition of "digital financial asset" as "a digital representation of value that is used as a medium of exchange, unit of account, or store of value, and that is not legal tender."

Comments

1) *Purpose of this bill*. According to the author, "AB 2269 will promote a healthy and sustainable cryptocurrency market by licensing and regulating businesses that help Californians buy and sell cryptocurrencies. While cryptocurrency has the potential to empower consumers and disrupt the financial sector in unexpected ways, its high volatility and the prevalence of fraud, illicit behavior, and technical and security vulnerabilities expose California consumers to significant financial harm. As a recent Wall Street Journal report

explains, the cryptocurrency market is "often little more than a casino, with weak regulation and few means for recourse for the losers." AB 2269 strikes a balance between protecting consumers from harm and fostering a responsible innovation environment by establishing clear rules for those companies that help Californians buy, sell, and exchange cryptocurrency."

2) *Origins of this bill.* This bill was gut-and-amended on June 6, 2022, to propose the regulation of business activity in the digital financial asset industry. The bill represents the Legislature's first effort to broadly regulate this set of activities since AB 1489 (Calderon) was introduced in 2019.[1] A large majority of the provisions of this bill were borrowed and adapted from AB 1489, which was based on a model law drafted by the Uniform Law Commission (ULC).[2]

In July 2017 the ULC adopted the Uniform Regulation of Virtual-Currency Businesses Act ("the act") after an extensive stakeholder process and multiple rounds of drafting, review, and amendments.[3] The ULC articulated two key motivations for approving and recommending that states adopt the act. First, the ULC asserted that regulations that are predictable and tailored to this emerging industry would provide assurance (i) to persons using digital financial asset products and services and (ii) to providers that they will in fairness be regulated like other providers of financial products and services. Secondly, the ULC believed that the model act would serve to clarify which state laws – whether existing money transmitter laws or a law specially tailored to digital financial assets – would govern a business' activities. In summary, the act is intended to provide basic protections for users and regulatory clarity for providers.

The act defines several key terms that govern whether a business' activity are subject to regulation and establishes a licensing framework for businesses with covered activities greater than $35,000 annually, subject to specified exceptions. The act establishes criteria for approval of a license application,

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[1] AB 1489 was not heard in any legislative committees, and the bill died when it failed to meet the constitutional deadline to advance out of its house of origin. The introduction of the bill motivated the Assembly Banking Committee to hold an informational hearing on regulating this emerging industry in October 2019. Materials from that hearing, including submitted testimony from witnesses, can be accessed at: **https://abnk.assembly.ca.gov/20112012oversighthearing**.

[2] The ULC is a non-profit association, comprised of more than 300 commissioners from across the country who promote the principle of uniformity by drafting and proposing specific statutes in areas of the law where uniformity between the states is desirable. See: **https://www.uniformlaws.org/aboutulc/overview**

[3] See here for final act documents, stakeholder comment letters, and other materials related to the model law: **https://www.uniformlaws.org/committees/community-home?communitykey=e104aaa8-c10f-45a7-a34a-0423c2106778**. Note that the ULC model law uses the phrase "virtual currency" where this bill uses "digital financial asset."

provides examination and enforcement authority to a state regulatory agency, mandates disclosures and other protections for users, and mandates compliance programs and policies.

In addition to the ULC licensing framework, the author has borrowed and adapted into this bill frameworks from federal and state laws that apply to other financial services and products, with the intent of addressing particular risks and harms to consumers and retail investors using digital financial assets. These other laws and the risks they intend to mitigate are discussed further in subsequent comments.

3) *How AB 2269 will Protect Consumers and Bring Stability to the Industry*

The financial services industry is among the most regulated in the American economy. The regulatory approach developed intensely in the first half of the 20th century as state and federal legislators and regulators addressed the persistence of bank panics and speculation and fraud in securities markets, which contributed to the Great Depression. The creation of regulatory institutions and legal frameworks related to banking and securities established a foundation for our financial system upon which the United States became the dominant financial and economic global powerhouse in the latter half of the 20th century.

The author of this bill recognizes that appropriately balanced regulation can serve as a foundation for healthy and sustainable markets. This bill borrows from existing regulatory approaches in traditional financial markets and applies them to providers of digital financial asset products and services.

Licensing framework: This bill requires businesses that engage in specified activities related to digital financial assets to first obtain a license from the state. A licensure requirement for financial services businesses is the most common regulatory approach at the state level, and DFPI administers licensing laws for a range of companies, including, but not limited to, banks, credit unions, money transmitters, lenders and brokers, mortgage loan originators, student loan servicers, and debt collectors. As required in similar licensing laws, this bill establishes an upfront application process, requires businesses to maintain adequate financial security to provide assurance that the business can meet its obligations to its customers, and authorizes DFPI to routinely examine businesses for compliance with the law and take enforcement actions when businesses violate those laws.

A licensed business subject to regulatory exams is less likely than an unlicensed business to engage in outright fraud, given the greater scrutiny over their business practices. If consumers believe that licensed businesses are safer, market activity will generally gravitate away from unlicensed businesses and towards licensed ones. This dynamic provides a competitive advantage to licensed businesses and provides consumers with more confidence that they can transact safely.

a) *Financial security*: This bill requires businesses to maintain a surety bond or monies held in trust for the benefit of its customers in the event the business fails. The bill also requires a business to maintain a minimum net worth to retain its license. These types of financial security requirements are common in licensing laws and serve to protect consumers from doing business with a company that may fail and be unable to fulfill its obligations to its customers, such as returning funds held by the business on their customers' behalf. The bill provides flexibility for DFPI to set limits that are appropriate to the size and nature of a given business, so that smaller businesses do not have the same requirements as larger ones.

b) *Protecting customers' property interests in digital financial assets*: Many consumers who own digital financial assets allow a third-party to store the assets in custodial wallets. Some third-parties structure these arrangements in a manner that transfers the ownership of the assets to the third party, and the third party provides a contractual promise to the beneficial owner of the assets to return an equivalent value of the digital financial asset upon request. If a third party using this arrangement were to enter bankruptcy, the beneficial owner of the digital financial asset (i.e., the consumer) would likely be classified as an unsecured creditor of the third party, and the consumer would likely receive only a fraction of their claim, which would be paid months or years after the third party initially files for bankruptcy. This bill establishes a requirement that licensees holding digital financial assets on behalf of customers do so in a manner that protects those assets from bankruptcy proceedings. The requirement is modelled after an existing legal framework that applies to securities intermediaries.[4]

c) *Best Interest standard*: Businesses that offer to exchange digital financial assets serve a critical role in the digital financial asset economy. These businesses are often the gateway through which consumers discover, buy, and sell assets and are the primary intermediary with whom many consumers interact. Serving in this trusted role, these businesses must be

[4] See Chapter 5 of Division 8 of the Commercial Code (commencing with Section 8501).

held to a high standard. Modeled after federal Regulation Best Interest that applies to securities broker-dealers, this bill requires such businesses to serve the best interests of their customers by disclosing and mitigating conflicts of interest, forming a reasonable basis for any recommendations made to customers, exercising reasonable diligence to evaluate specified criteria before listing any specific digital financial asset as available for exchange, and taking efforts to prevent insider trading from occurring on their platforms.

d) *Best Execution standard*: When customers place an order to buy or sell a digital financial asset, they do not have the requisite information to determine whether the business to whom they submit the order is executing their trade at the best price for the consumer. Modeled after FINRA Rule 5310 that applies to securities broker-dealers, this bill requires licensees that exchange a digital financial asset on behalf of a consumer to use reasonable diligence to find the best deal for the consumer and execute the consumer's order in a manner as favorable as possible under prevailing market conditions.

e) *Customer service requirement*: Many digital financial asset businesses operate exclusively online, and some customers have had issues contacting businesses when they have customer service needs, such as being locked out of their accounts.[5] Based on a new requirement in the Money Transmission Act enacted by AB 1320 (Bauer-Kahan, Chapter 453, Statutes of 2021), this bill requires licensees to maintain a toll-free telephone line through which a customer can contact the licensee and receive live customer assistance.

f) *Prohibition on unbacked stablecoins*: The total market cap of digital financial assets has fallen by more than 50% since early May 2022, and one of the catalysts that sparked the recent downturn was the implosion of a purported "stablecoin" called Terra USD. The issuers of Terra USD aimed for the asset to maintain a 1:1 peg with the US dollar primarily by designing through software code a mechanism that incentivized traders to balance supply and demand at a price of $1.00. This mechanism failed, the price of Terra USD dropped far below $1.00, and the asset is essentially worthless today. The failure erased $40 billion of market value in a matter of days, leaving consumers and investors with substantial losses.

[5] **https://www.cnbc.com/2021/08/24/coinbase-slammed-for-terrible-customer-service-after-hackers-drain-user-accounts.html**

One of the biggest consumer protection concerns is calling an asset "stable" when it relies on a poorly tested mechanism to keep it truly stable. This bill prohibits licensees from making a so-called "stablecoin" available for exchange, transfer, or storage unless the stablecoin's value is backed by reserve assets. Recent amendments further clarify the qualities of permissible stablecoins with the intent of providing a reasonable assurance to consumers that such assets can be considered stable.

The concepts of failure and innovation are inextricably intertwined. While some may view "innovation" as only a good thing, the practitioners who engage in actual innovating fundamentally understand this linkage.[6] Some industry representatives may claim that regulations will stifle innovation. The corollary of that argument, however, is that regulation will prevent failures that harm consumers who are unaware of risks being taken with their money by the innovators. Regulation does not intend to stifle innovation, but rather, to limit how broadly untested products can be marketed to and used by consumers. Regulations related to driverless cars, for example, do not prohibit experimentation and testing of driverless car technology; they do, however, prevent untested technologies from being deployed at a mass scale in a manner that jeopardizes the safety of the public. Just as government protects the public from potential failures of innovation that jeopardize their physical health, this bill would protect the public from failures of innovation that jeopardize their financial health.

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

According to the Senate Appropriations Committee, unknown, significant one-time and ongoing costs likely in the low- to mid-tens of millions of dollars for DFPI to stand-up and maintain the new licensing program for digital financial asset business activity. Costs to stand-up the new program would include equipment, software, other IT operating expenses, and workload related to promulgating regulations and training for DFPI staff. Ongoing costs would include additional staffing resources to conduct licensing, examination, investigation, and enforcement activities. Given the size and complexity of the proposed new program, DFPI would likely need specialized staff with technical expertise to support the program's operations.

Revenue from the new fees may offset DFPI's administrative and enforcement costs to some extent. Any actual increase in revenue to the DFPI will depend on

[6] See, e.g., "Failure and innovation are inseparable twins." – Jeff Bezos; and "Failure is an option here. If things are not failing, you are not innovating." – Elon Musk

the number of entities that would seek a license to engage in this type of business activity beginning January 1, 2024.

SUPPORT: (Verified 8/12/22)

Consumer Federation of California (source)
California Association for Micro Enterprise Opportunity
California Reinvestment Coalition

OPPOSITION: (Verified 8/12/22)

Blockchain Advocacy Coalition

ARGUMENTS IN SUPPORT: Consumer Federation of California, as sponsor, writes, "Proper regulation and consumer protections are vitally important when it comes to the arena of cryptocurrency, an extremely volatile area of financial mechanisms where a consumer's financial wellbeing can be on the line. The cryptocurrency market has expanded dramatically over the past decade, with thousands of new virtual currencies going into circulation. This trend was accelerated during the pandemic, as more and more consumers bought into the cryptocurrency market, spurred on by easily accessible trading applications, high profile Super Bowl ads, and internet hype. Despite this growing usage, regulation and consumer protections have not kept up…AB 2269 fills the regulatory gap by creating a clear path that would put consumers first and lead to some important 'rules of the road' for licensing and regulation in this area."

ARGUMENTS IN OPPOSITION: The Blockchain Advocacy Coalition writes in an *oppose unless amended* position, "We are concerned that AB 2269 in its current form could benefit from greater clarity and flexibility to avoid unintended consequences leading to the stifling of a nascent yet promising industry...
The coalition goes on to describe general concerns related to definitions and registration requirements and a specific concern that unbacked stablecoins should not be prohibited."

ASSEMBLY FLOOR: 65-0, 5/12/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Salas, Santiago, Seyarto,

Smith, Stone, Ting, Villapudua, Voepel, Waldron, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Boerner Horvath, Cunningham, Davies, Gray, Grayson, Kiley, Lackey, Lee, Quirk-Silva, Rodriguez, Blanca Rubio, Valladares, Ward

Prepared by: Bill Herms / B. & F.I. /
8/23/22 12:25:31

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

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THIRD READING

Bill No: AB 2273
Author: Wicks (D), Cunningham (R) and Petrie-Norris (D), et al.
Amended: 8/22/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-1, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, McGuire, Stern, Wieckowski, Wiener
NOES: Jones
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: 5-0, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NO VOTE RECORDED: Bates, Jones

ASSEMBLY FLOOR: 72-0, 5/26/22 - See last page for vote

SUBJECT: The California Age-Appropriate Design Code Act

SOURCE: 5Rights Foundation
Common Sense

DIGEST: This bill establishes the California Age-Appropriate Design Code Act, placing a series of obligations and restrictions on businesses that provide online services, products, or features likely to be accessed by children.

Senate Floor Amendments of 8/22/22 refine definitions within the bill, exempt a variety of online products and services, amend timelines, and expand the right to cure.

ANALYSIS:

Existing law:

1) Establishes the federal Children's Online Privacy Protection Act (COPPA) to provide protections and regulations regarding the collection of personal information from children under the age of 13. (15 U.S.C. § 6501 et seq.)

2) Requires, pursuant to the Parent's Accountability and Child Protection Act, a person or business that seeks to sell a product or service in California that is illegal to sell to a minor to, notwithstanding any general term or condition, take reasonable steps, as specified, to ensure that the purchaser is of legal age at the time of purchase or delivery, including, but not limited to, verifying the age of the purchaser. (Civ. Code § 1798.99.1(a)(1).)

3) Establishes the Privacy Rights for California Minors in the Digital World (PRCMDW), which prohibits an operator of an internet website, online service, online application, or mobile application ("operator") from various activities, including knowingly using, disclosing, compiling, or allowing a third party to use, disclose, or compile, the personal information of a minor with actual knowledge that the use, disclosure, or compilation is for the purpose of marketing or advertising specified products or services to that minor, where the website, service, or application is directed to minors or there is actual knowledge that a minor is using the website, service, or application. (Bus. & Prof. Code § 22580.)

4) Establishes the California Consumer Privacy Act (CCPA), which grants consumers certain rights with regard to their personal information. (Civ. Code § 1798.100 et seq.) Establishes the California Privacy Rights Act of 2020 (CPRA), which amends the CCPA. (Civ. Code § 798.100 et seq.; Proposition 24 (2020).)

5) Prohibits a business from selling or sharing the personal information of consumers if the business has actual knowledge that the consumer is a minor under 16 years of age, unless the consumer has authorized the sale or sharing. A business that willfully disregards the consumer's age shall be deemed to have had actual knowledge of the consumer's age. (Civ. Code § 1798.120.)

This bill:

1) Requires a business that provides an online service, product, or feature likely to be accessed by children ("covered business") to take specified actions, including to:
   a) undertake a Data Protection Impact Assessment for any online service, product, or feature likely to be accessed by children, as specified;
   b) estimate the age of child users with a reasonable level of certainty appropriate to the risks that arise from the data management practices of the

business, or apply the privacy and data protections afforded to children to all consumers;
   c) provide any privacy information, terms of service, policies, and community standards concisely, prominently, and using clear language suited to the age of children likely to access that online service, product, or feature;
   d) if the online service, product, or feature allows the child's parent, guardian, or any other consumer to monitor the child's online activity or track the child's location, provide an obvious signal to the child when the child is being monitored or tracked;
   e) enforce published terms, policies, and community standards established by the business, including, but not limited to, privacy policies and those concerning children; and
   f) provide prominent, accessible, and responsive tools to help children, or if applicable their parent or guardian, exercise their privacy rights and report concerns.

2) Provides that a covered business shall not engage in specified activity, including:
   a) using the personal information of any child in a way that the business knows or has reason to know is materially detrimental to the physical health, mental health, or well-being of a child;
   b) profiling a child by default, except as specified;
   c) collecting, selling, sharing, or retaining any personal information that is not necessary to provide an online service, product, or feature with which a child is actively and knowingly engaged, except as specified;
   d) using the personal information of a child for any reason other than a reason for which that personal information was collected, except as specified;
   e) collecting, selling, or sharing any precise geolocation information of children by default unless the collection of that precise geolocation information is strictly necessary to provide the service, product, or feature requested and then only for the limited time that the collection of precise geolocation information is necessary to provide the service, product, or feature; and
   f) collecting, selling, or sharing any precise geolocation information without providing an obvious sign to the child for the duration of that collection that precise geolocation information is being collected.

3) Exempts from the definition specified broadband internet access services, telecommunications services, and the delivery or use of a physical product.

4) Delays operative date of the above to July 1, 2024.

5) Establishes the Children's Data Protection Working Group to report on the best practices for the implementation of the bill. The working group members are to be appointed as specified. The Attorney General may adopt regulations.

6) Provides for enforcement through civil actions brought by the Attorney General. The bill provides businesses in violation with a 90-day right to cure, as specified.

Comments

The General Data Protection Regulation (GDPR) is a regulation in European Union law on data protection and privacy. The law that implemented the GDPR in the United Kingdom included an amendment that effectuated the requirement to offer children-specific protections and required the Information Commissioner to introduce an Age Appropriate Design Code to set standards that make online services' use of children's data "age appropriate": "The Children's code (or the Age appropriate design code) contains 15 standards that online services need to follow. This ensures they are complying with [their] obligations under data protection law to protect children's data online."

This bill, modeled after the Age Appropriate Design Code recently enacted in the United Kingdom, institutes a series of obligations and restrictions on businesses that provide an online service, product, or feature likely to be accessed by a child. The bill additionally establishes a working group to evaluate best practices for the implementation of the bill's provisions. The bill grants the Attorney General sole authority to bring enforcement actions and to adopt regulations.

According to the author, "While existing federal and state privacy laws offer important protections that guard children's privacy, there is no coherent, comprehensive law that protects children under 18 from goods, services, and products that endanger their welfare. As a result, online goods, services, and products that are likely to be accessed by kids have been loaded with adult design principals that do not factor in the unique needs of young minds, abilities, and sensibilities, nor offer the highest privacy protections by design and by default. As a result, children under 18 face a number of adverse impacts due to their interactions with online world, including bullying, mental health challenges, and addictive behaviors."

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

According to the Senate Appropriations Committee:

- DOJ: The Department of Justice (DOJ) reports costs of $2.4 million in Fiscal Year (FY) 2024-25 and $2.3 million in FY 2025-26 and annually thereafter (General Fund). The bill would also generate revenue to the DOJ in an unknown amount, resulting from penalty assessments of up to $7,500 per affected child, to be deposited into the Consumer Privacy Fund with the intent they be used to offset costs incurred by the DOJ.

- CCPA: The CCPA reports total costs of $1.05 million the first year, and $752 thousand ongoing to convene the task force, issue and update regulations, and review Data Protection Impact Assessments (General Fund).

- Judicial Branch: Unknown cost pressures due to increased court workload (Special Fund – Trial Court Trust Fund, General Fund).

SUPPORT: (Verified 8/22/22)

5Rights Foundation (co-source)
Common Sense (co-source)
Attorney General Rob Bonta
Accountable Tech
ADL West
Alcohol Justice
American Academy of Pediatrics, California
Avaaz
California Federation of Teachers, AFL-CIO
California Lawyers Association, Privacy Law Section
California Public Interest Research Group
Center for Countering Digital Hate
Center for Digital Democracy
Center for Humane Technology
Children and Screens
City of Berkeley
Consumer Federation of America
Consumer Federation of California
Do Curious Inc.
Eating Disorders Coalition
Epic
Fair Vote
Fairplay
Je Suis Lá

Joan Ganz Cooney Center - Sesame Workshop
LiveMore ScreenLess
Log Off
Lookup
Me2b Alliance
National Hispanic Media Coalition
NEDA
Oakland Privacy
Omidyar Network
Outschool, Inc.
Parents Together Action
Protect Young Eyes
Public Health Advocates
Real Facebook Oversight Board
Remind
Reset Tech
Roblox Corporation
Smart Digital Kids
Sum of Us
Tech Oversight Project
The Children's Partnership
The Signals Network
The Social Dilemma
Tiramisu
Ultraviolet
Two individuals

OPPOSITION: (Verified 8/22/22)

California Chamber of Commerce
California Manufacturing and Technology Association
Entertainment Software Association
MPA - the Association of Magazine Media
TechNet

ARGUMENTS IN SUPPORT: One of the two individuals in support, Tim Kendall, the first Director of Monetization at Facebook, writes:

"I know from experience that tech workers want to innovate and design products differently to prioritize well-being over profit. But until the profit motive changes, design will be at the expense of our collective well-being, especially our kids'. To

change the incentives, we need our political leaders to act. And we need solutions that work.

The world's largest tech companies have already said that the Age Appropriate Design Code, law in the United Kingdom, is spurring positive change. Just last month, a senior Google official told the UK Parliament, "The Age Appropriate Design Code has helped us determine new ways to keep our users safe."

Wouldn't they want to ensure California kids, kids in the United States, are safe as well? By taking some very basic steps – like restricting the collection of kids' data, requiring high privacy settings by default, and providing young people clear resources to report abusive users or block unpleasant content – the State of California can protect the health and wellbeing of millions of young people in our state.

We need lawmakers to regulate in order to shift the incentive structure of the tech industry. Historically, the regulation and enforcement of laws has been a primary catalyst in spurring innovation in virtually every new technology this country has seen. There is no doubt that regulating safer children's experiences online will lead to all kinds of technological innovation.

The California Age Appropriate Design Code Act – already in practice in the UK – gives us the opportunity to usher in a new era of innovative product design that considers, rather than monetizes, the next generation."

ARGUMENTS IN OPPOSITION: A coalition of industry groups, including the Entertainment Software Association, argues:

"In order to ensure our companies are able to implement this bill effectively we suggest aligning the scope of AB 2273 with existing law and definitions, namely by changing "likely to be accessed by a child" to "directed to children". "Likely to be accessed by a child" is an overinclusive standard and would capture far more websites and platforms than necessary and subject them to this bill's requirements. It is also an unfamiliar standard that will present problems for companies trying to determine whether they are in the scope of the bill.

"Directed to children" on the other hand is a term and scope that online services are familiar with as it is defined in COPPA, which companies have been implementing and complying with since its passage over 20 years ago. Similarly,

we suggest aligning the definition of "child" with COPPA as a person under the age of 13."

ASSEMBLY FLOOR: 72-0, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Cooley, Cooper, Cunningham, Megan Dahle, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Choi, Daly, Gipson, Kiley, O'Donnell

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
8/23/22 13:23:20

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

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THIRD READING

Bill No: AB 2275
Author: Wood (D) and Stone (D)
Amended: 8/25/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 9-0, 6/22/22
AYES: Pan, Melendez, Eggman, Gonzalez, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Grove, Hurtado

SENATE JUDICIARY COMMITTEE: 10-0, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, Jones, McGuire, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 74-0, 5/25/22 - See last page for vote

SUBJECT: Mental health: involuntary commitment

SOURCE: Author

DIGEST: This bill makes various clarifications and changes to the processes for involuntary detentions under the Lanterman-Petris-Short (LPS) Act, including specifying timeframes for when involuntary holds begin and for conducting certification review hearings and judicial reviews.

Senate Floor Amendments of 8/25/22 modify the timelines for certification review hearings for individuals detained and/or certified for intensive under the LPS Act, require that the individual receive certain information about the hearing and their rights at specified certification review hearings, and require an attorney or patients' advocate to meet with the individual prior to specified certification review hearings.

ANALYSIS:

Existing law:

Involuntary Detention

1) Establishes the LPS Act to end the inappropriate, indefinite, and involuntary commitment of individuals with mental health disorders, developmental disabilities, and chronic alcoholism, as well as to safeguard their rights, provide prompt evaluation and treatment, and provide services in the least restrictive setting appropriate to their needs. Permits involuntary detention of an individual deemed to be a danger to self or others, or "gravely disabled," as defined, for periods of up to 72 hours (known as "5150 holds") for evaluation and treatment; for up-to 14 days after certification of the need for initial intensive treatment; and up-to 30 days for additional intensive treatment in counties that opt in to provide additional intensive treatment. [WIC §5000, et seq.]

Certification Review Hearing

2) Requires, when an individual is certified for intensive treatment for up-to 14 or 30 days, a certification review hearing be held, unless judicial review has been requested, as specified, within four days of the date on which they are certified for a period of intensive treatment, unless postponed by request of specified persons. [WIC §5256]

Judicial Review

3) Requires every individual detained by certification for intensive treatment to have a right to a hearing by writ of habeas corpus for their release after they or any person acting on their behalf has made a request for release to either the person delivering the copy of the notice of certification to the individual certified at the time of the delivery, or to any member of the treatment staff of the facility providing intensive treatment, at any time during the period of intensive treatment, beyond an initial 72-hour detention. [WIC §5275]

Conservatorship

4) Permits a conservator of an individual, or the estate, or of both the individual and the estate, to be appointed for someone who is gravely disabled as a result of a mental health disorder or impairment by chronic alcoholism, and who remains gravely disabled after periods of intensive treatment. Requires a court or jury trial to commence within 10 days of the date of a demand, as specified. [WIC §5350]

County Patients' Rights Advocates (PRAs)

5) Requires the Department of State Hospitals (DSH) and the Department of Health Care Services (DHCS) to enter into a memorandum of understanding and to contract with a single nonprofit agency to ensure that mental health laws, regulations, and policies on the rights of recipients of mental health services are observed and protected in state hospitals and in licensed health and community care facilities. Requires the contractor to demonstrate the capability to provide statewide advocacy services for individuals with mental disabilities and to have no direct or indirect responsibility for providing services to individuals, except for advocacy services. [WIC §5510, 5370.2]

Definitions

6) Defines "gravely disabled," for purposes of evaluating and treating an individual who has been involuntarily detained or for placing an individual in conservatorship, as a condition in which they, as a result of a mental disorder or impairment by chronic alcoholism, are unable to provide for their basic personal needs for food, clothing, or shelter. [WIC §5008]

7) 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]

This bill:

Involuntary Detention

1) Clarifies that the up-to 72-hour involuntary detention time limit begins at the time when an individual is first detained. Clarifies that designated facilities are prohibited from detaining individuals for longer than 72 hours from the time they were first detained.

PRAs

2) Requires a facility to which an individual, who is involuntarily detained for up-to 72 hours, is transported to notify the county's patients' right advocate if they have not been released within 72 hours of the initial involuntary detention.

Certification Review Hearing

3) Eliminates the ability to postpone a certification review hearing for persons certified for intensive treatment.

4) Requires a certification review hearing when a person has been detained under the 72-hour hold and has not been certified for additional intensive treatment; the hearing must be held within seven days of the date the person was initially detained unless judicial review has been requested.

5) Requires, for a hearing under 4), the professional person in charge of the facility or a person designated by the county to inform the detained person of their rights with respect to a hearing and an attorney or county patients' rights advocate to meet with the person to discuss the commitment process and assist in preparing for the certification review hearing.

Judicial Review

6) Expands the judicial review requirement in existing law from just individuals detained by certification for intensive treatment to all individuals detained under the LPS Act, which would include those detained for up-to 72 hours.

Conservatorship

7) Specifies that failure to commence a trial within the time required in existing law is grounds for dismissal of conservatorship proceedings.

8) Requires an officer conducting a conservatorship investigation to include all alternatives available to place individuals, including all less restrictive alternatives when the officer recommends either for or against conservatorship.

Comments

1) *Author's statement.* According to the author, the past several years have seen an intensified focus on the LPS Act and its effectiveness in serving the most seriously mentally ill. The dramatic increase in substance use and homelessness has only exacerbated the concern that our systems of treatment and care are failing to adequately and appropriately serve those most in need. Attempts to modify or expand the LPS Act have grown year by year with little consensus being obtained around what is truly in the best interest of the people the LPS Act is intended to serve. At the center of this issue is the nexus of how to provide involuntary care or treatment while ensuring that individuals' civil liberties are not violated. In December 2021, a joint hearing by the Assembly

Health and Judiciary Committees revealed that there is significant room for improvement. The hearing also noted that there is a significant lack of consistency in implementing the act across the state. However, in trying to discern where to begin to improve the LPS Act, it was revealed that there is little or no data upon which to base improvements to the system. This bill provides some clarity around the most fundamental aspects of the LPS Act, such as when a hold begins and when due process entitlements begin. This bill also establishes a framework for meaningful data collection beyond those that currently exist.

2) *LPS Act.* The LPS Act provides for involuntary commitment for varying lengths of time for the purpose of treatment and evaluation, provided certain requirements are met. Additionally, the LPS Act provides for LPS conservatorships, resulting in involuntary commitment for the purposes of treatment if an individual is found to meet the grave disability criteria. Typically one first interacts with the LPS Act through a 5150 hold, which allows a designated facility to involuntarily commit 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 peace officer or other authorized person who detains the individual must determine and document that the individual meets this standard. When making the determination or determining that an individual should be placed on a 5150 hold, the peace officer or other authorized person may consider information about an individual's historical course of a mental disorder, which includes evidence presented by a person who has provided or is providing mental health or related support services to the individual on the 5150 hold; evidence presented by one or more members of the family of the individual on the hold; and, evidence presented by the individual on the hold, or anyone designated by that person, if the historical course of their mental disorder has a reasonable bearing on making a determination that they require a 5150 hold.

   Following an initial 5150 hold, an individual may be certified for intensive treatment, which initially permits a person to be held for an additional up to 14-days, without court review, if they are found to still be a danger to self or others, or gravely disabled. When determining whether the individual is eligible for a 14-day detention, the professional staff of the agency or facility providing evaluation services must find that the individual has been advised of the need for, but has not been willing or able to accept, treatment on a voluntary basis. A notice of certification is required for all individuals certified for intensive treatment, and a copy of the notice for certification is required to be personally delivered to the individual certified, their attorney, or the attorney or advocate,

as specified. If after the initial 14 days an individual is still found to remain gravely disabled and unwilling or unable to accept voluntary treatment, they may be certified for an additional period of not more than 30 days of intensive treatment in counties that have opted to provide additional intensive treatment. An individual cannot be found at this point to be gravely disabled if they can survive safely without involuntary detention with the help of responsible family, friends, or others who indicate they are both willing and able to help.

The LPS Act provides for a conservator of an individual, of the estate, or of both the individual and the estate if they are gravely disabled as a result of a mental health disorder or impairment by chronic alcoholism or use of controlled substances. The individual for whom such a conservatorship is sought has the right to demand a court or jury trial on the issue of whether they meet the gravely disabled requirement. The purpose of an LPS conservatorship is to provide individualized treatment, supervision, and placement for the gravely disabled individual. Current law also deems an individual cannot be deemed gravely disabled for purposes of a conservatorship if they can survive safely without involuntary detention with the help of responsible family, friends, or others who indicate they are both willing and able to help.

3) *California State Auditor (CSA) audit on the LPS Act.* The CSA released *LPS Act: California Has Not Ensured That Individuals with Serious Mental Illnesses Receive Adequate Ongoing Care* on July 28, 2020. The audit focused on the following issues in three counties (Los Angeles, San Francisco, and Shasta):

   a) Criteria for involuntary detention for those who are a danger to self or others or gravely disabled, due to a mental health condition, and criteria for conservatorship, and whether the counties have consistently followed those criteria;

   b) Differences in approaches among the counties in implementing the LPS Act, if any;

   c) Funding sources, and whether funding is a barrier to implementing the LPS Act; and,

   d) Availability of treatment resources in each county.

   Relative to this bill, the CSA stated that counties are largely unable to access information about when individuals are placed on or discharged from short-term holds. Treatment facilities do not always share information with county mental health plans (CMHPs) about short-term holds. Because counties and

treatment facilities do not uniformly coordinate, counties lack information that might enable them to provide adequate ongoing care to individuals with mental illnesses once they are released from the treatment facilities. While information is not shared with the county CMHPs, the treatment facilities are required to report certain short-term holds to the Department of Justice (DOJ) so that DOJ can determine whether individuals are prohibited from having firearms. Although DOJ has both express permission to and a valid business reason for possessing information about involuntary holds, state law deems this information confidential unless it is relevant to a court proceeding regarding an individual's right to own or possess a firearm, and DOJ has not entered into any interagency agreements with other state agencies or CMHPs to share this data. The CSA recommended that to ensure counties are able to access important data about individuals who have been placed on involuntary holds under the LPS Act, the Legislature should amend state law to do the following:

a) Require the information that designated mental health facilities report to DOJ about involuntary holds to be made available to DHCS;

b) Require treatment facilities to report to DHCS all short-term holds that result from the grave disability criterion; and,

c) Direct DHCS to obtain daily mental health facility information from DOJ and make that information, as well as the information that facilities report directly to it, available to CMHPs for county residents, and for a limited time for nonresidents, on an involuntary hold within the county.

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

According to the Senate Appropriations Committee:

- Costs to counties may be reimbursable by the state, subject to a determination by the Commission on State Mandates.

- Unknown costs, likely minor, to the state.

SUPPORT: (Verified 8/26/22)

Cal Voices
California Association of Social Rehabilitation Agencies
California Council of Community Behavioral Health Agency
City of Santa Monica
Depression and Bipolar Support Alliance
Disability Rights California

OPPOSITION: (Verified 8/26/22)

None received

ARGUMENTS IN SUPPORT: Supporters of this bill state that it makes important clarifications to the LPS Act that will improve access to due process and ensure collection of more complete data to track outcomes and demographics of people subject to involuntary treatment. Some counties do not begin running the 72-hour clock until a person is actually admitted to an LPS-designated facility. When that occurs, many people on holds statewide remain in hospital emergency departments for excessive periods of time while they wait for placement in LPS-designated facilities. The waiting time often comes unnecessarily close to 72 hours and sometimes exceeds the legally permitted maximum. This practice results in different treatment of similarly-situated people placed on holds across county lines, infringes upon liberty by prolonging involuntary detentions, and prevents access to timely due process. Disability Rights California states that the standardization proposed by this bill is long overdue, and creating additional reporting requirements for demographic information including race, ethnicity, gender identity, age group, veteran status, housing status, and Medi-Cal enrollment status will enable the state and counties to begin identifying trends that indicate bias or discrimination in the placement of LPS Act holds.

ASSEMBLY FLOOR: 74-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Cunningham, Mayes, O'Donnell

Prepared by: Allison Meredith / JUD. / (916) 651-4113
8/26/22 15:47:34

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

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THIRD READING

Bill No: AB 2294
Author: Jones-Sawyer (D)
Amended: 8/17/22 in Senate
Vote: 27 - Urgency

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 6/21/22
AYES: Bradford, Kamlager, Skinner, Wiener
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 6-1, 8/11/22
AYES: Portantino, Bradford, Jones, Laird, McGuire, Wieckowski
NOES: Bates

ASSEMBLY FLOOR: 54-15, 5/26/22 - See last page for vote

SUBJECT: Diversion for repeat retail theft crimes

SOURCE: Author

DIGEST: This bill authorizes a city attorney, district attorney, or county probation department to create a diversion or deferred entry of judgment program for individuals committing a theft offense or repeat theft offenses, as specified.

Senate Floor Amendments of 8/17/22 recast one of the provisions in the bill into a different Penal Code section in order to avoid chaptering issues with SB 1106 (Wiener).

ANALYSIS:

Existing law:

1) States that every person who steals, takes, carries, leads, or drives away the personal property of another, or who fraudulently appropriates property which has been entrusted to them, or who knowingly and designedly, by any false or fraudulent representation or pretense, defrauds any other person of money,

labor or real or personal property, is guilty of theft. (Pen. Code, § 484, subd. (a).)

2) Divides theft into two degrees, petty theft and grand theft. (Pen. Code, § 486.)

3) Defines grand theft as when the money, labor, or real or personal property taken is of a value exceeding $950 dollars, except as specified; other cases of theft are petty theft. (Pen. Code, §§ 487-488.)

4) Punishes grand theft as an alternate felony-misdemeanor ("wobbler"). (Pen. Code, § 487.)

5) Punishes petty theft as a misdemeanor. (Pen. Code, § 490.)

6) Creates, until January 1, 2026, the crime of organized retail theft which is defined as:

   a) Acting in concert with one or more persons to steal merchandise from one or more merchant's premises or online marketplace with the intent to sell, exchange, or return the merchandise for value;

   b) Acting in concert with two or more persons to receive, purchase, or possess merchandise knowing or believing it to have been stolen;

   c) Acting as the agent of another individual or group of individuals to steal merchandise from one or more merchant's premises or online marketplaces as part of a plan to commit theft; or,

   d) Recruiting, coordinating, organizing, supervising, directing, managing, or financing another to undertake acts of theft. (Pen. Code, § 490.4, subd. (a).)

7) Punishes, until January 1, 2026, organized retail theft as follows:

   a) If violations of the provisions directed at acting in concert or as an agent are committed on two or more separate occasions within a one-year period, and if the aggregated value of the merchandise stolen, received, purchased, or possessed within that period exceeds $950, the offense is punishable as a wobbler;

   b) Any other violation of the provisions directed at acting in concert or as an agent is punishable as a misdemeanor by imprisonment in a county jail not exceeding one year; and,

c) A violation of the recruiting, coordinating, organizing, supervising, directing, managing, or financing provision is punishable as a wobbler. (Pen. Code, § 490.4, subd. (b).)

8) Requires, until January 1, 2026 the Department of the California Highway Patrol (CHP) to coordinate with the Department of Justice (DOJ) to convene a regional property crimes task force to identify geographic areas experiencing increased levels of property crimes and assist local law enforcement with resources, such as personnel and equipment. (Pen. Code, § 13899.)

9) States that the task force shall provide local law enforcement in the identified region with logistical support and other law enforcement resources, including, but not limited to, personnel and equipment, as determined to be appropriate by the Commissioner of CHP in consultation with task force members. (Pen. Code, § 13899.)

10) States that pretrial diversion refers to the procedure of postponing prosecution of an offense filed as a misdemeanor either temporarily or permanently at any point in the judicial process from the point at which the accused is charged until adjudication. (Pen. Code, § 1001.1.)

11) Authorizes the prosecution to approve a pretrial diversion program for misdemeanor offenses. (Pen. Code, §§ 1001.2, subd. (b) & 1001.50, subd. (b).)

12) Provides that to be eligible for a prosecution-approved misdemeanor diversion program, all of the following must apply to the defendant:

a) The defendant has not ever had probation or parole revoked without thereafter being completed;

b) The defendant has not participated in a diversion program within the previous five years; and,

c) The defendant has never been convicted of a felony, and has not been convicted of a misdemeanor within the previous five years. (Pen. Code, § 1001.51, subd. (a).)

13) Authorizes a superior court judge to offer pretrial diversion to a person charged with a misdemeanor, over the objection of a prosecuting attorney (court-initiated misdemeanor diversion), except that a defendant may not be offered diversion for any of the following currently charged offenses:

a) Any offense for which a person would be required to register as a sex offender;

b) A domestic violence or domestic battery offense; and,

c) Stalking. (Pen. Code, § 1001.95, subds. (a) & (e).)

14) States that if the defendant has complied with the imposed terms and conditions, at the end of the diversion period, the judge shall dismiss the action against the defendant. (Pen. Code, § 1001.95, subd. (c).)

15) Requires a peace officer to release persons arrested for misdemeanors with a written notice to appear in court, containing the name and address of the person, the offense charged, and the time when, and place where, the person shall appear in court, except in specified circumstances. (Pen. Code, § 853.6.)

16) Specifies that if the following reasons exist a peace officer may choose to take into custody a person charged with a misdemeanor upon a written notice to appear in court:

a) The person arrested was so intoxicated that he or she could have been a danger to himself or herself or to others;

b) The person arrested required medical examination or medical care or was otherwise unable to care for his or her own safety;

c) The person was arrested for a Vehicle Code violation and the person fails to present identification, refuses to give his or her promise to appear in court, or demands and immediate appearance before a magistrate;

d) There were one or more outstanding arrest warrants for the person;

e) The person could not provide satisfactory evidence of personal identification;

f) The prosecution of the offense or offenses for which the person was arrested, or the prosecution of any other offense or offenses, would be jeopardized by immediate release of the person arrested;

g) There was a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered by release of the person arrested;

h) The person arrested demanded to be taken before a magistrate or refused to sign the notice to appear;

i) There is reason to believe that the person would not appear at the time and place specified in the notice and the basis for this determination is specifically stated; or,

j) The person is arrested for certain violent crimes requiring a hearing in open court before release. (Pen. Code, § 853.6, subd. (a)(2).)

17) Authorizes a court to issue a bench warrant whenever a defendant fails to appear in court as required by law, and as specified. (Pen. Code, § 978.5.)

18) Establishes the Board of State and Community Corrections (BSCC). (Pen. Code, § 6024, subd. (a).)

19) Requires the BSCC to do the following, among other things:

a) Develop recommendations for the improvement of criminal justice and delinquency and gang prevention activity throughout the state;

b) Identify, promote, and provide technical assistance relating to evidence-based programs, practices, and promising and innovative projects consistent with the mission of the board;

c) Receive and disburse federal funds, and perform all necessary and appropriate services in the performance of its duties as established by federal acts;

d) Develop procedures to ensure that applications for grants are processed fairly, efficiently, and in a manner consistent with the mission of the board;

e) Identify delinquency and gang intervention and prevention grants that have the same or similar program purpose, are allocated to the same entities, serve the same target populations, and have the same desired outcomes for the purpose of consolidating grant funds and programs and moving toward a unified single delinquency intervention and prevention grant application process in adherence with all applicable federal guidelines and mandates;

f) Cooperate with and render technical assistance to the Legislature, state agencies, local governments, or other public or private agencies, organizations, or institutions in matters relating to criminal justice and delinquency prevention;

g) Develop incentives for units of local government to develop comprehensive regional partnerships whereby adjacent jurisdictions pool grant funds in order to deliver services, to a broader target population and maximize the impact of state funds at the local level;

h) Conduct evaluation studies of the programs and activities assisted by the federal acts.

i) Identify and evaluate state, local, and federal gang and youth violence suppression, intervention, and prevention programs and strategies, along with funding for those efforts. (Pen. Code, § 6027, subd. (b).)

This bill:

1) Authorizes a city or county prosecuting authority or county probation department to create a diversion or deferred entry of judgment program for persons who commit a theft offense or repeat theft offenses.

2) Defines "repeat theft offenses" to mean being cited or convicted for misdemeanor or felony theft from a store or from a vehicle two or more times in the previous 12 months and failing to appear in court when cited for these crimes or continuing to engage in these crimes after release or after conviction.

3) Provides that if a county creates a diversion or deferred entry of judgment program for individuals committing a theft offense or repeat theft offenses, on receipt of a case or at arraignment, the prosecuting attorney shall either refer the case to the county probation department to conduct a prefiling investigation report to assess the appropriateness of program placement or, if the prosecuting attorney's office operates the program, determine if the case is one that is appropriate to be referred to the program.

4) States that in determining whether to refer a case to the program, the probation department or prosecuting attorney shall consider, but is not limited to, all of the following factors:

   a) Any prefiling investigation report conducted by the county probation department or nonprofit contract agency operating the program that evaluates the individual's risk and needs and the appropriateness of program placement.

   b) If the person demonstrates a willingness to engage in community service, restitution, or other mechanisms to repair the harm caused by the criminal activity and address the underlying drivers of the criminal activity.

c) If a risk and needs assessment identifies underlying substance abuse or mental health needs or other drivers of criminal activity that can be addressed through the diversion or deferred entry of judgment program.
d) If the person has a violent or serious prior criminal record or has previously been referred to a diversion program and failed that program.

e) Any relevant information concerning the efficacy of the program in reducing the likelihood of participants committing future offenses.

5) States that on referral of a case to the program, a notice shall be provided, or forwarded by mail, to the person alleged to have committed the offense with both of the following information:

a) The date by which the person must contact the diversion program or deferred entry of judgment program in the manner designated by the supervising agency; and,

b) A statement of the penalty for the offense or offenses with which that person has been charged.

6) Specifies that the prosecuting attorney may enter into a written agreement with the person to refrain from, or defer, prosecution on the offense or offenses on the following conditions:

a) Completion of the program requirements such as community service or courses reasonably required by the prosecuting attorney; and,

b) Making adequate restitution or an appropriate substitute for restitution to the establishment or person from which property was stolen at the face value of the stolen property, if required by the program.

7) Includes within the reasons for nonrelease that the person has been cited, arrested, or convicted for misdemeanor or felony theft from a store in the previous 6 months and that there is probable cause to believe that the person arrested in guilty of committing organized retail theft.

8) Authorizes the court to issue a bench warrant when the defendant has failed to appear and the defendant has been cited or arrested for misdemeanor or felony theft from a store and has failed to appear in court in connection with that charge or those charges in the previous 6 months.

9) Requires, upon appropriation, BSCC to award grant funding to 4 or more county superior courts or county probation departments to create demonstration

projects to reduce the recidivism of high-risk misdemeanor probationers, as specified.

10) States that he demonstration projects shall evaluate the probation completion and recidivism rates for project participants and may compare them to control groups to evaluate program efficacy.

11) Requires BSCC to determine criteria for awarding the grants on a competitive basis that shall take into consideration the ability of a county to conduct a formal misdemeanor probation project for high-risk misdemeanor probationers, including components that align with evidence-based practices in reducing recidivism, including, but not limited to, risk and needs assessment, programming to help with drug or alcohol abuse, mental illness, or housing, and the support of the superior court if the application is from a county probation department.

12) Requires BSCC to develop reporting requirements for the participating entities and requires those entities to report the results of the demonstration project to BSCC.

13) Requires BSCC to report to the Legislature and county criminal justice officials two years after the appropriation by the Legislature.

14) Contains a severability clause so in the event that any provision 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.

15) Sunsets its provisions on January 1, 2026.

Comments

According to the author of this bill:

> Organized retail crime is defined as theft/fraudulent activity conducted with the intent to convert illegally obtained merchandise, cargo, cash, or cash equivalent into financial gain, often through subsequent online or offline sales. These operations typically involve a criminal enterprise that organizes multiple theft rings at a number of retail stores and employs a fencing operation to sell the illegally-obtained goods for financial gain.

In December of 2020, the NRF released their Organized Retail Crime study and found that organized retail theft continues to be pervasive within the industry. The study surveyed loss prevention executives from large and mid-sized retailers and found that retail crime had increased 68% with losses averaging over $700,000 for every $1 billion in sales.

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

According to the Senate Appropriations Committee, "Unknown, significant cost pressure, likely in the millions of dollars, to fund grants to counties that offer diversion programs for "high risk" misdemeanants (General Fund). The BSCC reports ongoing costs of $220,000 annually in order to implement and oversee the grant program. Funds would be used to hire 1.0 permanent position and for operating expenses and equipment."

SUPPORT: (Verified 8/17/22)

Los Angeles County District Attorney's Office
Peace Officers Research Association of California

OPPOSITION: (Verified 8/17/22)

None received

ASSEMBLY FLOOR: 54-15, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Waldron, Ward, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Cooley, Cooper, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Nguyen, Patterson, Seyarto, Smith
NO VOTE RECORDED: Berman, Chen, Choi, Mathis, O'Donnell, Valladares, Villapudua, Voepel, Akilah Weber

Prepared by: Stella Choe / PUB. S. /
8/19/22 13:15:41

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

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THIRD READING

Bill No: AB 2295
Author: Bloom (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/15/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE HOUSING COMMITTEE: 6-1, 6/21/22
AYES: Wiener, Caballero, McGuire, Roth, Skinner, Umberg
NOES: Bates
NO VOTE RECORDED: Cortese, Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 50-19, 5/26/22 - See last page for vote

SUBJECT: Local educational agencies: housing development projects

SOURCE: California School Boards Association
cityLAB-UCLA

DIGEST: This bill deems a housing project, beginning January 1, 2024 and until January 1, 2033, to be an allowable use on property owned by a local educational agency (LEA) if it meets specified affordability criteria and planning standards.

Senate Floor Amendments of 8/25/22 require LEAs to offer housing to employees of adjacent LEAs before offering housing to other public employees, and require any housing built to be located on property that is entirely located within any applicable urban limit line or urban growth boundary.

ANALYSIS:

Existing law:

1) Allows, under the California Constitution, cities and counties to "make and enforce within its limits, all local, police, sanitary and other ordinances and

regulations not in conflict with general laws." It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public—including land use authority.

2) Requires cities and counties to develop general plans that include seven (sometimes eight) elements. The land use element must designate the location of various land uses, including education.

3) Requires, general, other local agencies to comply with city and county zoning ordinances, but allows school districts to override local zoning with a 2/3rds vote for classroom uses.

4) Establishes the Teacher Housing Act of 2016, which provides that:

   a) It is state policy to support housing for teachers and school district employees.

   b) School districts and developers in receipt of local or state funds or tax credits designated for affordable rental housing may restrict occupancy to teachers and school district employees on land owned by school districts.

   c) School districts may allow local public employees or other members of the public to occupy housing created through the Teacher Housing Act.

   d) A majority of the units must be rented at an affordable rent to lower income or moderate-income households.

This bill:

1) Deems, beginning January 1, 2024, a housing development project an allowable use on any real property owned by an LEA as of January 1, 2023, and deems it consistent with local development standards, zoning codes or maps, and the general plan, if the project satisfies all of the following:

   a) The housing development consists of at least 10 housing units;

   b) The majority of the units of the housing development are offered at an affordable rent to lower income or moderate-income households, with at least 30 percent of the units affordable to lower income households, for 55 years;

c) Housing units are offered first to the LEA's employees, then to employees of directly adjacent LEAs, next to local public employees within the jurisdiction of the LEA, and finally to members of the public, as specified.

d) The residential density for the housing development meets the greater of the following:

e) The residential density allowed on the parcel by the city or county, as applicable; or

f) The applicable density deemed appropriate to accommodate housing for lower income households in that jurisdiction, as specified in existing law for calculating the jurisdiction's regional housing need for lower income households.

g) The height limit for the housing development is the height limit allowed on the parcel by the city or county, or 30 feet, whichever is greater;

h) The property is adjacent to a property that permits residential uses;

i) The property is an infill site, as defined;

j) Any housing built must be located on property that is entirely contained within any applicable urban limit line or urban growth boundary;

k) The housing development complies with all infrastructure-related requirements, including impact fees that are existing or pending at the time the application is submitted, imposed by a city or county or a special district that provides service to the parcel; and

l) The project meets other local objective zoning standards, objective subdivision standards, and objective design review standards, as defined, that do not preclude the housing development from achieving the residential density or the height permitted by this bill. If a local agency has not adopted objective standards applicable to residential development on the parcel, the housing development is subject to local zoning, parking, design, and other ordinances, local code requirements, and procedures applicable to the processing and permitting of a housing development on the nearest parcel in a multifamily zone that meets or exceeds the density and height provided in the bill.

2) Requires the LEA to maintain ownership of a housing development that meets the requirements of this section for the length of the 55-year affordability

requirement, but allows any land used for the development of a project under the bill to be jointly used or jointly occupied by the local educational agency and any other party, consistent with existing law.

3) Provides that any land used for housing under the bill is exempt from the requirements of the Surplus Land Act and specified provisions of law that govern disposal of school properties.

4) Requires, on or before January 31, 2023, the Department of Housing and Community Development to provide written notice to the planning agency of each county and city that this section becomes effective on January 1, 2024.

5) Defines its terms, includes findings and declarations to support its purposes, and sunsets on January 1, 2033.

Background

According to a December 2021 report, *Education Workforce Housing in California: Developing the 21st Century Campus*, by CityLAB at the University of California Los Angeles (cityLAB-UCLA), there are more than 1,000 LEAs in California that collectively own more than 150,000 acres of land. Of that land, there are 7,068 properties with potentially developable land of one acre or more, totaling 75,000 acres statewide. At a density of 30 dwelling units per acre, such properties could contain 2.3 million units of housing—more than enough to house the state's 300,000 teachers and 350,000 other LEA employees.

Since June 2018, eight California LEAs have put a proposition or measure before local voters to fund education workforce housing development, with six of these measures passing. Recent research identified 46 LEAs pursuing housing projects on 83 different sites. However, to date, California is home to just four completed education workforce housing developments by Los Angeles Unified School District and Santa Clara Unified School District.

The cityLAB-UCLA report included numerous recommendations to improve the ability of LEAs to construct workforce housing on their property, including to:

- Increase land use flexibility and streamline approvals process;
- Expand financing tools available; and
- Build the capacity of LEAs to develop housing.

CityLAB-UCLA wants the Legislature to authorize housing as a use on LEA-owned properties.

Comments

1) *Purpose of this bill.* According to the author, "School districts in California own 10,900 properties with over 150,000 acres of land, half of which are potentially suitable for housing. By easing the administrative and bureaucratic hurdles, AB 2295 will help LEAs feasibly construct enough housing to meet the current demand and help address teaching shortages—ultimately helping keep quality teachers and staff in the classroom."

2) *Home rule.* Cities and counties develop zoning ordinances to control where residential development occurs in their jurisdictions. Under current law, school districts may develop housing on their properties for their employees if allowed by the local zoning. School districts that want to build housing can ask their city or county to make the zoning changes necessary to do so. AB 2295 overrides the local general plan and zoning processes that are the venue ensuring that the needs of the community can be balanced with the needs of the school district by making housing an allowable use on school district properties across the state.

3) *Who is this really for?* While AB 2295 is intended to enable school districts to construct housing for their employees, it merely requires the educational agency to prioritize their employees, after which it can offer units in the development to other local agency employees and the general public. This is inconsistent with the Teacher Housing Act, which requires any programs to construct housing to be restricted to teacher or school district employees, or local public employees subject to applicable laws and regulations. AB 2295 requires 30 percent of the units to be affordable to lower-income households, but nothing in the bill prohibits a developer from approaching a school district that had no intention of constructing housing for its workers purely so that the developer can disregard local zoning. Furthermore, because the project can contain units for the general public, a school district may be incentivized to develop a larger project than is needed to serve their employees.

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

SUPPORT: (Verified 8/25/22)

California School Boards Association (co-source)
cityLAB-UCLA (co-source)

Abode Communities
California Apartment Association
California School Employees Association
City of Glendale
East Bay for Everyone
Los Angeles Unified School District
Meta
Non-Profit Housing Association of Northern California
People Assisting the Homeless
San Francisco Bay Area Planning and Urban Research Association
Southern California Association of Non-Profit Housing
SV@Home Action Fund
Terner Center for Housing Innovation at the University of California, Berkeley

OPPOSITION: (Verified 8/25/22)

California State Pipe Trades Council
City of Chino
City of Santa Clarita
City of Thousand Oaks
Coalition of California Utility Employees
Contra Costa County Board of Supervisors
International Union of Elevator Constructors, Local 8
International Union of Elevator Constructors, Local 18
South Bay Cities Council of Governments
State Building & Construction Trades Council of California
Western States Council Sheet Metal, Air, Rail and Transportation

ASSEMBLY FLOOR: 50-19, 5/26/22
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Salas, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron

NO VOTE RECORDED: Arambula, Berman, Daly, Gray, Maienschein, Mayes, O'Donnell, Rodriguez, Santiago

Prepared by: Anton Favorini-Csorba / GOV. & F. / (916) 651-4119
8/26/22 15:47:34

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

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

THIRD READING

Bill No: AB 2296
Author: Jones-Sawyer (D)
Amended: 8/11/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-0, 6/14/22
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas, Jones

SENATE APPROPRIATIONS COMMITTEE: 5-1, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates
NO VOTE RECORDED: Jones

ASSEMBLY FLOOR: 56-13, 5/25/22 - See last page for vote

SUBJECT: Task Force to Study and Develop Reparation Proposals for African Americans

SOURCE: Author

DIGEST: This bill extends the sunset on the Task Force to Study and Develop Reparation Proposals for African Americans, with Special Considerations for African Americans who are Descendants of Persons Enslaved in the United States (Task Force) to give the Task Force an additional year to complete its work; clarifies that reports published by the Task Force are within the public domain; and modifies provisions relating to the removal of appointees, the election of officer, and the creation of advisory bodies and subcommittees.

ANALYSIS:

Existing law:

1) Establishes, within the Government Code, Chapter 4.5 of Division 1 in Title 2, entitled "Reparations for the Institution of Slavery." (Gov. Code, tit. 2, div. 1, ch. 4.5, §§ 3801 et seq.)

2) Establishes the Task Force to Study and Develop Reparation Proposals for African Americans, with Special Considerations for African Americans who are Descendants of Persons Enslaved in the United States. (Gov. Code, § 8301.1(a).)

3) Requires the Task Force to perform all of the following duties:

   a) Identify, compile, and synthesize the relevant corpus of evidentiary documentation of the institution of slavery that existed within the United States and the colonies that became the United States from 1619 to 1865, inclusive, including specified components of that institution.

   b) Recommend appropriate ways to educate the California public of the Task Force's findings.

   c) Recommend appropriate remedies in consideration of the Task Force's findings, and address factors such as how the remedies comport with international standards of remedy for wrongs and injuries caused by the State, how the State will offer a formal apology for its perpetration of slavery, how to eliminate California laws and policies that continue to disproportionately and negatively affect African Americans, and what forms of compensation should be awarded. (Gov. Code, § 8301.1(b).)

4) Requires the Task Force to submit a written report of its findings and recommendations to the Legislature no later than the date that is one year after the date of the first meeting of the Task Force, as defined. (Gov. Code, § 8301.1(c).)

5) Provides for the composition of the Task Force, the term of office for members, and compensation for members, as specified, and for the Task Force to appoint personnel or otherwise procure assistance and supplies. (Gov. Code, §§ 8301.2, 8301.4.)

6) Authorizes the Task Force to take specified actions for the purpose of carrying out its duties, including hold hearings, request the production of documents, and seek a court order to compel the presence of witnesses or compliance with a subpoena. (Gov. Code, § 8301.3)

7) Provides that the chapter in 1), containing the duties and obligations in 2)-6), will sunset on July 1, 2023. (Gov. Code, § 8301.7.)

This bill:

1) Authorizes the Task Force to submit at least one written report of its findings.

2) Provides that any report submitted to the Legislature by the Task Force pursuant to 1) is within the public domain and that the State of California retains to copyright or other proprietary interest in the information.

3) Eliminates the provision establishing the Task Force's members' term of office as the life of the Task Force, and specifies instead that an appointee may be removed at the pleasure of their appointing authority.

4) Eliminates the provision providing that the Task Force's elected chair and vice chair's terms of office are for the life of the Task Force, and provides instead that the members of the Task Force, by majority vote, may elect officers and create advisory bodies and subcommittees to accomplish its duties.

5) Extends the sunset date on the chapter enacting the Task Force until July 1, 2024.

Comments

According to the author:

> AB 2296 seeks to extend the California Task Force to Study and Develop Reparation Proposals for African Americans sunset to July 1, 2024 and clarifies the Task Force's ability to establish officers and subcommittees to accomplish its work using best practices of good governance.
>
> The continued legacy of discrimination and structural inequality plagues Black Americans to this very day. The vestiges of United States chattel slavery permeate through the lives of slave-era descendants and federal efforts to look at the very real harms and avenues for redress have stalled. In 2020, Governor Newsom signed AB 3121 (S. Weber) into law, establishing the California Task Force to Study and Develop Reparation Proposals for African Americans. The bill requires the task force to gather and synthesize documentary evidence of slavery and its ongoing legacy, develop ways to educate Californians about its findings, and recommend appropriate remedies in a report to the Legislature.
>
> This monumental task is not being taken lightly. The members of the task force are working to ensure that we gather as much evidence as humanly possible and produce a framework that can be used as a starting point for other

states and the nation. This work takes time and even after the report is published, there will undoubtedly be work to do beyond the current July 1, 2023 sunset date. By expressly waiving the State's copyright and ensuring the scholarly work produced by the Task Force is in the public domain, all Californians and beyond will be able to freely disseminate the body of evidentiary information without unnecessary hurdles.

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

According to the Senate Appropriations Committee, costs of approximately $1.5 million to continue to fund the Task Force for an additional year (General Fund).

SUPPORT: (Verified 8/11/22)

California Nurses Association/National Nurses United
California Teachers Association

OPPOSITION: (Verified 8/11/22)

None received

ARGUMENTS IN SUPPORT: According to the California Nurses Association/National Nurses United (CNA), writing in support:

CNA is an ardent supporter of racial justice and advocates for policies that lead to an end of institutional racial discrimination. Over 4 million Africans were enslaved for the benefit of the American economy and likely the largest driving force to America's rise as a superpower in the modern era. Utilizing free labor, held under the threat of death, has beyond a doubt made it possible for America to become one of the wealthiest nations of the world…

Slavery also broadly impacted the conditions of Black life within California. For example, during the era of slavery, the California Legislature, which was dominated by pro-slavery Democrats hoping to curtail Black social and political power within the state, passed a series of laws prohibiting "blacks and mulattoes" from voting and from testifying against whites in court—in both criminal and civil cases. The California Legislature stripped Black citizens of political power while empowering White people to broadly commit crime without consequence against Black persons. This type of systematic state complicity in the construction of racial harm and inequality continued into the twentieth and twenty-first centuries.

Surely these facts are worth the time and energy to continue to study, at a minimum, a policy for reparations for these descendants of this population.

ASSEMBLY FLOOR: 56-13, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Cunningham, Megan Dahle, Fong, Gallagher, Kiley, Lackey, Nguyen, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Chen, Choi, Davies, Flora, Mathis, Mayes, O'Donnell, Patterson

Prepared by: Allison Meredith / JUD. / (916) 651-4113
8/15/22 12:54:36

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

SENATE RULES COMMITTEE AB 2298
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2298
Author: Mayes (I)
Amended: 8/25/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 9-0, 6/22/22
AYES: Pan, Melendez, Eggman, Gonzalez, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Grove, Hurtado

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 76-0, 5/26/22 - See last page for vote

SUBJECT: Recreational water use: wave basins

SOURCE: Author

DIGEST: This bill requires wave basins to be subject to regulation as a permanent amusement ride under the Permanent Amusement Ride Safety Inspection Program and requires the California Department of Public Health (CDPH) to adopt regulations for the sanitation and safety of wave basins.

Senate Floor Amendments of 8/25/22:

1) Require CDPH to develop the regulations in consultation with the Division of Occupational Safety and Health;

2) Permit CDPH to consider specific federal guidance in developing the regulations, rather than requiring the regulations to be consistent with specified federal guidance;

3) Give local health officers the authority to enforce wave basin sanitation and safety regulations in their jurisdiction; and,

4) Prohibit anything in this bill from relieving a wave basin operator from its obligation to comply with applicable sanitation and safety requirements until the wave basin regulations are adopted.

ANALYSIS:

Existing law:

1) Requires CDPH to supervise the sanitation, healthfulness, and safety of public swimming pools. Requires local health officers (LHOs) to enforce the building standards relating to swimming pools and the other regulations adopted by CDPH. [HSC §116035 and §116053]

2) Defines "public swimming pools" as any public swimming pool, bathhouse, public swimming and bathing place, and all related properties. Exempts any artificially constructed swimming facility that is 20,000 square feet of surface area or greater from the construction standards required of public swimming pools. [HSC §116025 and §116030]

3) Requires every person operating or maintaining a public swimming pool to do so in a sanitary, healthful and safe manner. Requires public swimming pools, including swimming pool structure, appurtenances, operation, source of water supply, amount and quality of water recirculated and in the pool, method of water purification, lifesaving apparatus, measures to insure safety of bathers, and measures to insure personal cleanliness of bathers to be such that the public swimming pool is at all times sanitary, healthful, and safe. [HSC §116040-116043]

4) Establishes the Wave Pool Safety Act, under which "wave pool" is defined as a swimming pool designed for the purpose of producing breaking wave action in the water and that is not primarily designed for standup surfing or bodyboarding. Under the Wave Pool Safety Act, wave pool operators must provide life vests, children under 42 inches in height are required to be accompanied by an adult, an audible signal is required to be used prior to resuming wave action to warn patrons of impending waves, lifeguards are required to be assigned to guard a wave pool, an emergency stop for the wave equipment is required to be easily accessible to the lifeguards and other pool officials, wave pool operators are required to ensure that the wave pool has regular periods without breaking waves being produced, and signs with clearly legible letters and, if appropriate, symbols, that communicate these requirements are required to appear at the ticket booth or entrance gate to the park or other facility where the wave pool is located. [HSC §115950, et seq.]

5) Establishes the Permanent Amusement Ride Safety Inspection Program to create a state system for the inspection of permanent amusement rides. [LAB §7920, et seq.]

This bill:

1) Requires wave basins to be subject to regulation as a permanent amusement ride under the Permanent Amusement Ride Safety Inspection Program. Defines "wave basin" as an artificially constructed body of water within an impervious water containment structure incorporating the use of a mechanical device principally designed to generate waves for surfing on a surfboard or analogous surfing device commonly used in the ocean and intended for sport. Specifies that "wave basin" does not include wave pools.

2) Permits the Division of Occupational Safety and Health (DOSH) to inspect and otherwise oversee the operation of a wave basin to ensure compliance with those standards and requirements.

3) Requires CDPH, in consultation with DOSH, to adopt regulations for the sanitation and safety of wave basins. Permits CDPH to consider federal Centers for Disease Control and Prevention guidance, including, but not limited to, the guidance outlined in the Model Aquatic Health Code during the rulemaking process. Permits the regulations to be modeled upon the sanitation and safety regulations for swimming pools, but to consider the unique characteristics of a wave basin, including the volume of water, chemical dispersion caused by wave action, and the size of a typical wave basin.

4) Gives local health officers the authority to enforce wave basin sanitation and safety regulations in their jurisdiction.

5) Prohibit anything in this bill from relieving a wave basin operator from its obligation to comply with applicable sanitation and safety requirements until the wave basin regulations are adopted.

Background

According to information provided to the Senate Health Committee by the author of AB 1161 (Calderon, 2020), which sought to regulate wave basins, there are several key characteristics that differentiate wave basins from wave pools. "Wave pool" means a swimming pool designed for producing breaking wave action in the water and is not primarily designed for standup surfing or bodyboarding. A wave basin is a constructed large body of water with a wave generation system used for surfing related activities with more than 100,000 square feet of surface area that is

suitable for standup surfing. Wave basins are substantially larger sized and hold greater volume of water than traditional wave pools.

Based on the volume of water in wave basins, the current requirement on water treatment turnover rate is excessive and would require significant equipment and capacity to pump, filter, sanitize, and return the entire water volume multiple times per day. The wave basin already generates frequent turbulence and mixing of basin water that would enhance circulation and disbursement of sanitization treatment placed in water basins. The author further states that another notable difference is the bather capacity is substantially less than traditional public pool facilities. Bather capacity at a wave basin is anticipated to be less than 30 occupants at any given time of operation. Due to the low number of bathers, there is minimal impact on the chlorine disinfection demand as required for traditional swimming facilities.

Surf Ranch. According to a November 2017 article in *Science* magazine, wave pools for surfing date back more than 50 years, but do not produce waves comparable to ocean waves. In the ocean, storms create surface gravity waves that roll along in deep water and only interact with the bottom, or shoal, when the water depth is about half the length of the distance between successive crests (the wavelength). Three things then happen: The wavelength shortens, the height increases, and the crest moves faster than the wave's lowest point, the trough. When the height of the wave is about the same as the water's depth, the wave breaks. Surf Ranch in Lemoore, Kings County attempts to recreate ocean waves, and appears to be the only wave basin in the state (and the only entity that this bill would apply to). Surf Ranch contains a 700 meter-long artificial lake with a system that drags a metal blade called a hydrofoil through the water. As the resulting swell sweeps over the lakebed, which have been precisely contoured, it is transformed into a surfing wave.

Forthcoming guidance. The Model Aquatic Health Code (MAHC), first issued by the Centers for Disease Control and Prevention (CDC) in 2014, is a voluntary set of guidelines to prevent injury and illness at public aquatic venues, such as pools, hot tubs, and water playgrounds. According to the Council for the MAHC (CMAHC), these guidelines bring together the latest science and best practices to help jurisdictions save time and resources when they develop and update pool codes. The MAHC outlines specific rules that designers, builders, and managers of public aquatic venues must follow to maximize the fun and the health benefits of water-based activities. The MAHC serves as a voluntary model and guide for local and state agencies needing to update or implement swimming pool and spa code, rules, regulations, guidance, law, or standards governing the design, construction, operation, and maintenance of public swimming pools, spas, hot tubs, and other

disinfected aquatic facilities. It is updated every three years by the CMAHC membership in consultation with the CDC. According to CMAHC, it is working with CDC to draft guidance language for Surf Venues and Artificial Swimming Lagoons, with the intent that CDC will release interim guidance on these venues by the end of this year. The end goal is an update to the MAHC that includes model code language for these facilities in 2025.

Comments

Author's statement. According to the author, the emergence of artificial wave technology used for wave basin venues has made it possible to replicate an ocean wave hundreds of miles away from the coast giving inland residents the opportunity to experience the sport of surfing. Not only do wave basins provide access to a sport once only accessible by visiting the coast, but they are also generating economic activity in the tourism and hospitality industries. Surfing is an integral part of California's culture, and it is important for the Legislature to promote the sport and encourage its growth. If wave basin venues are going to flourish in California they will need health and safety standards that make sense for operators while ensuring the well-being of the venue's visitors and employees. This bill will go a long way in providing operators the certainty needed to continue to grow in the state.

Related/Prior Legislation

AB 441 (Mayes, 2021) and AB 1161 (Calderon and Salas, 2020) stated that specified regulations governing public swimming pools do not apply to wave basins, and instead would have established standards for the operation and maintenance of wave basins. AB 441 was held on the Senate Appropriations Committee suspense file. AB 1161 was vetoed by Governor Newsom, who stated "…this bill lacks necessary public health and safety protections. It would exempt wave basins from a number of health and safety regulations, including worker protections overseen by the Department of Industrial Relations."

SB 107 (Alquist, Chapter 335, Statutes of 2008) created the Wave Pool Safety Act, which establishes guidelines for wave pool facilities.

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

According to the Senate Appropriations Committee:

- CDPH estimates state operations costs of approximately $1,346,000 over the first five years and $193,000 ongoing thereafter (General Fund).

- The Department of Industrial Relations estimates that the fiscal impact would be absorbable in the immediate future. However, additional resources would be needed if the number of wave basins in the state were to increase and result in additional inspections and challenges to their jurisdiction.

SUPPORT: (Verified 8/25/22)

World Surf League

OPPOSITION: (Verified 8/25/22)

None received

ARGUMENTS IN SUPPORT: The World Surf League states that recent innovations and technological advances in artificial wave generation have made it possible to recreate the experience of surfing an ocean wave in newly constructed land locked wave basins. Like in most cases of transformative technology, current laws and regulations on the books can quickly become outdated or no longer apply. This problem of inapplicable health and safety standards is most demonstrable at the Surf Ranch in Lemoore, California. The volume of water, the amount of turbulence created by the wave, and the occupancy rate create a different set of factors to be considered when making judgements on water quality, safety protocols, and sanitation. This bill simply requires CDPH to take these unique characteristics into consideration when developing health and safety standards specific to wave basins.

ASSEMBLY FLOOR: 76-0, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Melanie Moreno / HEALTH / (916) 651-4111
8/26/22 15:47:35

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2306
Author: Cooley (D)
Amended: 8/22/22 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 5-0, 6/27/22
AYES: Hurtado, Jones, Cortese, Kamlager, Pan

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 76-0, 5/25/22 - See last page for vote

SUBJECT: Foster care: Independent Living Program

SOURCE: County Welfare Directors Association of California

DIGEST: This bill expands and modernizes the Independent Living Program (ILP) to include current and former foster youth up to 22 years of age, and, subject to an appropriation and federal approval, up to age 23, and expands the services for which counties can provide stipends to assist youth with specified independent living needs to include former foster youth up to 25 years of age, as specified.

Senate Floor Amendments of 8/22/22 delay the operation any provisions of this bill that requires automation to implement until July 1, 2024, as specified.

ANALYSIS:

Existing law:

1) Establishes a state and local system of child welfare services, including foster care, for children who have been adjudged by the court to be at risk of abuse and neglect or to have been abused or neglected, as specified. *(WIC 202*)

2) Establishes a system of juvenile dependency for children, 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) Provides for extended foster care (EFC) funding for youth until age 21, as well as adopts other changes to conform to the federal Fostering Connections to Success Act. *(WIC 241.1; 303; 366.3; 388; 391;450;11400;11402;11403)*

4) Defines "nonminor dependent" (NMD) as a youth who is between 18 and 21 years of age, in foster care under the responsibility of the county welfare department, county probation department, or Indian tribe, and participating in a transitional independent living plan (TILP), as specified. *(WIC 11400(v))*

5) Delineates responsibilities for the California Department of Social Services (CDSS) in the development and administration of the ILP. *(WIC 10609.4)*

6) Defines "supervised independent living setting" as including all of the following: a supervised independent living placement, a transitional housing unit, a residential housing unit, and a transitional living setting approved by the county to support youth who are entering or reentering foster care or transitioning between placements, as specified. *(WIC 11400(x))*

7) Requires CDSS, with the approval of the federal government, to permit all eligible children to be served by the ILP until age 21. *(WIC 10609.3(d))*

8) Requires counties to maintain a stipend, to supplement and not supplant the ILP, as specified. *(WIC 10609.3(e)(1))*

This bill:

1) Finds and declares that under Continuum of Care Reform (CCR), the intent of the state to implement a continuum of foster care services and programs that meet the needs of foster children, youth, and families, and that CCR established the importance of ensuring that foster youth have a voice in decision being made on where they are placed and services they receive through a Child and Family Team process.

2) Declares that many youth are transitioning to the EFC program, under which youth can live independently or with a foster family, receive a monthly stipend, and pursue education, training, and work with the continued support of the child welfare system.

3) Requires CDSS, subject to an appropriation for this purpose and with the approval of the federal government, to amend the child welfare services (CWS)

state plan to permit all eligible current and former foster youth to be served by the ILP up to 22 years of age.

4) Provides that it is the intent of the Legislature upon receipt of a report, as described, to enact legislation to expand eligibility for the ILP to current and former foster youth up to 23 years of age.

5) Expands the list of items a county stipend may provide to assist youth who have exited the foster care system at or after 18 years of age to also include the following independent living needs:

   a) Other assistance to facilitate access to transportation besides bus passes;
   b) Other housing-related costs necessary to obtain or maintain housing besides housing utility deposits;
   c) Basic household necessities to establish or retain housing;
   d) Assistance with securing or retaining communications equipment, including, but not limited to, a cell phone; and,
   e) Education-related equipment costs, including, but not limited to, tuition, school fees, and equipment.

6) Requires counties, subject to an appropriation by the Legislature, to also provide stipends to assist former foster youth up to 25 years of age, with their independent living needs, as specified.

7) Requires the annual county ILP report that each county department of social services is required to submit to CDSS to also include program purposes related to providing training in daily living skills that include financial management, including tax preparation and filing.

8) Permits ILP participants to take part in postsecondary education, as specified.

9) Requires the ILP provide participants training on financial management, including tax preparation and filing.

10) Makes findings and declarations related to the ILP, and how California's program has largely remained unchanged despite the implementation of the EFC program and the unique challenges faced by California's transition-aged youth and NMDs, specifically, the high cost of housing and cost of living, compounded by their unique trauma, lived experience, and disproportionate representation of persons of color in the child welfare system.

11) Requires CDSS, in consultation with County Welfare Directors Association of California (CWDA), the Chief Probation Officers of California (CPOC), and other stakeholders, to do all of the following:

    a) Update and expand the standards and requirements for the ILP to increase consistency in ILP programs across counties, while retaining some flexibility in services and supports delivered by local ILPs based on the needs of current and former foster youth and NMDs served by ILPs;
    b) Establish guidelines for county ILP plans;
    c) Identify a minimum set of specific core services and supports that all county ILPs are required to provide and best practices for county ILPs. Requires the best practices identified to be informed by promising practices in California and other states that remove barriers to services and supports in ILP service delivery;
    d) Provide guidance on the allowable uses of federal and state funds for stipends and direct supports for ILP participants; and,
    e) Develop statewide procedures to annually collect and post on the CDSS website, information relating to ILP participation rates, services offered, and outcomes.

12) Requires at a minimum, the core services and supports to include all of the following:

    a) Supporting transition-aged youth (TAY) and young adults in developing or maintaining connections to family, family-like adults, or other important adults, as well as peer connections, to increase well-being and decrease isolation. Requires this support to include consideration of how the ILP can link TAY and young adults to specialty mental health services or other health and mental health services through use of peer support specialist services;
    b) Direct services or linkage to programs and services that will reduce the incidence of homelessness;
    c) Outreach and education through social media and other technologies utilized by current and former foster youth and NMDs to increase outreach, engagement, and connection to supportive services. Requires CDSS to provide counties with technical assistance and guidance to facilitate access to technologies in compliance with all applicable privacy laws;
    d) Stipends or incentives that are universally available to ILP program participants to facilitate participation in ILP activities;

e) Supporting transition-aged youth and young adults in entering and completing postsecondary education and pursuing employment and career goals; and,
f) Referring transition-aged youth and young adults to services that provide free tax filing and tax literacy resources.

13) Requires counties to submit a plan for the operation of its ILP that complies with the established guidelines, within nine months of CDSS' issuance of an all-county letter and county fiscal letter, and to fully implement their ILP plans within 12 months, as provided. Further, permits CDSS to extend the deadlines if a county has good cause.

14) States legislative intent that funds appropriated for the purposes of expanding ILP services be allocated to counties prior to CDSS' completion of activities, as specified.

15) Requires, CDSS, in consultation with the CWDA, to determine the funding necessary to expand eligibility for the ILP and the stipends for emancipated youth as specified, to include former foster youth up to 23 years of age, and to submit a report with this analysis to the Legislature during budget hearings for the 2023–24 fiscal year budget, as provided.

16) Requires CDSS to implement these changes to the ILP changes listed above through all-county letters or similar instructions until regulations are adopted.

17) Provides that the implementation of the core ILP services and supports identified in the county plan for the operation of its ILP and related reporting requirements are contingent on an appropriation by the Legislature for those purposes.

18) Delays the operation any provisions of this bill that require automation to implement until July 1, 2024, or the date the department notifies the Legislature that the statewide child welfare information system can perform the necessary automation to implement the ability to identify the ILP core services and supports, whichever is earlier.

Comments

According to the author, "AB 2306 would expand ILP eligibility and update standards of care and services offered to better meet the needs of this unique TAY population and set them up for success. By requiring CDSS to revise these standards, in consultation with child welfare stakeholders, we will be able to best determine the acute needs of these youth and the needed resources for

implementation. Our state's greatest asset and future is its youth and we now have the opportunity to greatly support our most vulnerable young people as they transition into adulthood."

Child Welfare Services. The CWS system is an essential component of the state's safety net. Social workers in each county receive reports of abuse or neglect, and work to investigate and resolve those reports. When a case is substantiated, a family is either provided with services to ensure a child's well-being and avoid court involvement, or a child is removed from the family and placed into foster care. This system seeks to ensure the safety and protection of these children, and where possible, preserve and strengthen families through visitation and family reunification. It is the state's goal to reunify a foster child or youth with their biological family whenever possible. As of January 1, 2022, there were 59,539 children in California's CWS system.

Continuum of Care Reform Efforts. The CCR is a system-wide effort to institute a series of reforms to California's CWS program. It is designed out of an understanding that children who must live apart from their biological parents do best when they are cared for in committed nurturing family homes. For more than a decade, researchers have documented poor outcomes for foster children. These outcomes have been especially pronounced for those placed in group or congregate care settings. CCR intends to reduce the number of foster children placed in congregate care settings by improving the assessments of children and families and establishing a child and family team for each child in foster care.

Independent Living Program. Authorized through the federal Foster Care Independence Act of 1999 (Public Law 106-169), and later renamed the John H. Chafee Foster Care Independence Program (Chafee), the ILP provides training, services, and benefits to assist current and former foster youth in achieving self-sufficiency prior to, and after leaving, the foster care system. In California, each county is able to design services to meet a wide range of individual needs and circumstances, and to coordinate services with other federal and state agencies engaged in similar activities. To be eligible to receive ILP services, a youth must be at least 16 and can remain eligible until the day before the youth turns 21 years of age, provided one of the following criteria is met:

- The youth was/is in foster care at any time from their 16th to their 19th birthday.

- The youth was placed in out-of-home care by a tribe or tribal organization between their 16th and 19th birthdays.

- The youth is a former dependent who entered into a kinship guardianship at any age and is receiving or received Kinship Guardianship Assistance Payments between the ages of 16 and 18.

- The youth is a former dependent who entered into a Non-Related Legal Guardianship after attaining age eight, and is receiving or received permanent placement services.

Services provided to TAY in the program include: living skills, money management, decision making, building self-esteem, financial assistance with college or vocational school attendance, educational resources, housing (such as Transitional Housing), and employment services. Up to 30 percent of federal funds may be used to support housing needs such as room and board for eligible youth. Additionally, counties can provide stipends to support the independent living needs of the youth so they can participate fully in the offered ILP services.

This bill seeks to expand the ILP to better support current and former foster youth. In particular, this bill expands access to certain supports until the youth turns 22 years old, and seeks to determine how much it would cost to provide support to the youth until they turn 23 years old, with the goal of expanding support to age 23. This bill also requires counties, subject to an appropriation by the Legislature, to provide stipends to assist former foster youth up to 25 years of age with their independent living needs.

Families First Prevention Services Act (FFPSA). The FFPSA, enacted as part of Public Law 115–123 in 2018, authorized a new, optional use of title IV-E funding for states and tribes to utilize on services that would prevent the entry of children into foster care. Prior to FFPSA, states were only permitted to use federal Title IV-E funds for children once they were placed in the child welfare system, to reimburse costs such as: foster care maintenance for eligible children; administrative expenses to manage the program; training for staff, foster parents and certain private agency staff; adoption assistance; and kinship guardianship assistance.

Under FFPSA, states may claim federal reimbursement for approved prevention services prior to a child being placed in foster care in order to allow "candidates for foster care" to remain with their parents or kin caregivers. To be considered a "candidate for foster care" under federal law, a child must have a prevention plan, be at imminent risk of entering foster care, and be able to remain safely in their home or in a placement with kin, so long as prevention services to keep the child out of foster care are provided. FFPSA also allows prevention services to be provided to a child in foster care who is pregnant or parenting, as well as the

parents or kin caregivers of pregnant/parenting foster youth and candidates for foster care. Services can include mental health, substance use disorder treatment, and in-home parent skill-based programs for children or youth who are candidates for foster care.

Under FFPSA, states are also authorized to provide services to youth up to age 23, who have aged out of foster care. To date, there are 22 states that have currently extended the eligibility for the ILP, while California has not. This bill seeks to implement that extension of ILP services to TAY in California.

Related/Prior Legislation

AB 640 (Cooley, Chapter 622, Statutes of 2021) allowed counties to make a redetermination of a foster youth's eligibility for Title IV-E federally funded foster care when the youth is entering EFC.

AB 403 (Stone, Chapter 773, Statutes of 2015), AB 1997 (Stone, Chapter 612, Statutes of 2016), AB 404 (Stone, Chapter 732, Statutes of 2017), AB 1930 (Stone, Chapter 910, Statutes of 2018), AB 819 (Stone, Chapter 777, Statutes of 2019) and AB 2944 (Stone, Chapter 104, Statutes of 2020) implemented CCR to better serve children and youth in California's child welfare services system.

AB 12 (Beall, Chapter 559, Statutes of 2010) created California's EFC program to allow foster youth to remain in foster care until 21 years of age.

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

According to the Senate Appropriations Committee:

- CDSS estimates local assistance costs of $16.2 million General Fund ongoing and one-time state automation costs of $165,000 General Fund.

- To the extent this bill increases county costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment, this bill would apply to local agencies only to the extent that the state provides annual funding for the cost increases.

SUPPORT: (Verified 8/12/22)

County Welfare Directors Association of California (source)
County of Fresno
County of Sacramento
County of Santa Clara

John Burton Advocates for Youth
Kings County Human Service Agency
National Association of Social Workers, California Chapter

OPPOSITION: (Verified 8/12/22)

None received

ASSEMBLY FLOOR: 76-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Bridgett Hankerson / HUMAN S. / (916) 651-1524
8/23/22 13:23:11

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

SENATE RULES COMMITTEE AB 2309
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2309
Author: Friedman (D)
Amended: 8/11/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 6/14/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

SENATE HUMAN SERVICES COMMITTEE: 5-0, 6/27/22
AYES: Hurtado, Jones, Cortese, Kamlager, Pan

SENATE APPROPRIATIONS COMMITTEE: 6-0, 8/11/22
AYES: Portantino, Bradford, Jones, Laird, McGuire, Wieckowski
NO VOTE RECORDED: Bates

ASSEMBLY FLOOR: 71-0, 5/23/22 - See last page for vote

SUBJECT: Guardianships

SOURCE: Alliance for Children's Rights
California Alliance of Caregivers

DIGEST: This bill simplifies the procedures for a juvenile court to appoint a guardian for a child under its jurisdiction when the parent has informed the court that they are not interested in reunification services and the relevant parties agree to the appointment; and requires the California Department of Social Services (CDSS) to submit a report to the Legislature relating to child welfare voluntary placement agreements and care plans, as specified.

ANALYSIS:

Existing law:

1) Provides that a child may become a dependent of the juvenile court and be removed from their parents or guardian on the basis of abuse or neglect, as specified. (Welf. & Inst. Code, § 300.)

2) Requires, whenever a social worker has cause to believe that a child is a victim of abuse or neglect, to immediately make any investigation they deem necessary to determine whether child welfare services should be offered to the family and whether proceedings in the juvenile court should be commenced. (Welf. & Inst. Code, § 328.)

3) Requires a juvenile court to hold a jurisdictional hearing within 15 judicial days of the filing of a petition to take the child into temporary custody to determine whether the court has jurisdiction to adjudicate the child a dependent of the court. (Welf. & Inst. Code, § 334.)

4) Allows a juvenile court, after hearing evidence at the dispositional hearing, to order a guardianship for the child in addition to or in lieu of adjudicating the child a dependent child of the court, if all of the following circumstances are met:
   a) The court finds that the parent is not interested in family maintenance or family reunification services.
   b) The court determines that the guardianship is in the best interest of the child.
   c) The parent and child agree to the guardianship, unless the child's age or physical, emotional, or mental condition prevents the child's meaningful response.
   d) The court advises the parent and the child that no reunification services will be provided as a result of the establishment of a guardianship.
   e) If the child is an Indian child, a specified assessment has been performed and considered by the court. (Welf. & Inst. Code, § 360(a).)

5) Requires the court, at a dispositional hearing, to order a social worker to provide child welfare services to a child who has been removed from their parents' custody and the parents in order to support the goal of reunification, for a specified time period, except under certain circumstances. Children and families in the child welfare system should typically receive at least six months of reunification services if the child is under three years of age, and at least twelve months if the child is over three years of age, which may be extended up to 18 or 24 months, as provided. These services need not be ordered if the parent has voluntarily relinquished the child or the court has ordered a guardianship pursuant to 5). (Welf. & Inst. Code, § 361.5(a).)

6) Provides that a court, when making a final order to terminate parental rights or establish guardianship of a child for a child adjudged a dependent of the juvenile court, may appoint a relative or nonrelative as the guardian of the child. (Welf. & Inst. Code, § 366.26.)

This bill:

1) Requires CDSS to submit a report to the Legislature on or before July 1, 2025, that includes all of the following data, to be collected beginning no later than January 1, 2025, or 15 months after the date CDSS notifies the Legislature that the Child Welfare Services—California Automated Response and Engagement System can perform the necessary automation to implement the new data fields required to gather the data:
   a) The number of children in the care and custody of all county placing agencies placed pursuant to a voluntary placing agreement, as defined.
   b) The number of child welfare agency investigations that resulted in a written plan for the care of a child outside the home of the parent that is not a voluntary placement agreement.
   c) The number of children in 1)(a) and (b) for whom a subsequent report is made by child protective services within one year of initial contact with the county agency, including whether the reports were substantiated, unsubstantiated, or inconclusive.

   d) The number of children identified in 1)(a) and (b) for whom a dependency court petition is filed within one year of the date of the voluntary placement agreement or written plan for care.

2) Requires CDSS's report pursuant to 1) to include the data stratified by a variety of demographic characteristics, including, at a minimum, by race and income level to the extent allowable to protect confidentiality.

3) Provides that, if (a) a parent has advised the court that they are not interested in family reunification services and designated a specific person to be the child's guardian, (b) the child does not object to the appointment, and (c) the proposed guardian agrees to appointment, the court must appoint the proposed guardian after hearing evidence at the dispositional hearing unless the court finds by a preponderance of the evidence that the appointment would be contrary to the best interests of the child. If the child is an Indian child, existing specified placement preferences apply.

Comments

Author's statement. "Research demonstrates that children who have experienced abuse or neglect and cannot immediately return home to a parent have better educational and behavioral health outcomes when they live with relatives, compared to children placed in non-family settings. Relative caregivers (including "non-relative extended family members," who are not related to the child but have

a family-like role in the child's life) help children to grow up more connected to community and cultural identity.

"AB 2309 allows the juvenile court to order a guardianship with a caregiver of the family's choice earlier in a juvenile court case instead of ordering a child into foster care placement. In addition, the bill requires the Department of Social Services to collect demographic and outcome data of children living with relative caregivers in and out of the juvenile court system, so that we can have a better understanding of all types of kinship settings statewide."

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

According to the Senate Appropriations Committee, this bill has a fiscal impact of one-time costs to CDSS of approximately $550,000, of which $275,000 would come from the General Fund (General Fund, Federal Funds).

SUPPORT: (Verified 8/11/22)

Alliance for Children's Rights (co-source)
California Alliance of Caregivers (co-source)
ACLU California Action
California Tribal Families Coalition
John Burton Advocates for Youth
Los Angeles Dependency Lawyers, Inc.
Legal Services for Children
National Association of Social Workers – California Chapter

OPPOSITION: (Verified 8/11/22)

None received

ARGUMENTS IN SUPPORT: According to the Alliance for Children's Rights, the sponsor of the bill:

> Welfare and Institutions Code section 360(a) (hereafter Section 360(a)) provides an opportunity early in a juvenile court case to ensure that a child can live with a relative or other known caregiver of the family's choice. Specifically, Section 360(a) permits the juvenile court to order guardianship in lieu of ordering a child into foster care placement when parents do not wish to receive reunification services and want an alternative plan for their child…
>
> Although Section 360(a) guardianships were created "to give some deference to the parent's *own* plan for his or her child at an early stage of the dependency

proceedings,"[1] this intent is not fully realized in practice. There is no requirement that the court consider the parents' choice of guardian prior to ordering a Section 360(a) guardianship. Without this protection, the parents' proposed guardian often gets overlooked, and the children are placed in foster care even though a safe and permanent family option is available…

AB 2309 addresses families' reported challenges with the Section 360(a) guardianship process in three ways:

- Allowing parents to designate an individual of their choice to serve as the guardian if the child's safety is not jeopardized;

- Requiring the juvenile court to hold a dispositional hearing on an expedited timeline when the parent requests a Section 360(a) guardianship and the child is already placed in the home of the proposed guardian; and

Requiring the Department of Social Services to collect demographic and outcome data of children living with relative caregivers in and out of the juvenile court system.

ASSEMBLY FLOOR: 71-0, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Mia Bonta, Megan Dahle, Gallagher, O'Donnell, Blanca Rubio, Seyarto

Prepared by: Allison Meredith / JUD. / (916) 651-4113
8/15/22 13:01:51

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

[1] *In re Summer H.* (2006) 139 Cal.App.4th 1315, 1334, fn. 11 (emphasis added).

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THIRD READING

Bill No: AB 2316
Author: Ward (D), et al.
Amended: 8/24/22 in Senate
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 11-2, 6/27/22
AYES: Hueso, Becker, Bradford, Dodd, Eggman, Gonzalez, Hertzberg, McGuire, Min, Rubio, Stern
NOES: Dahle, Grove
NO VOTE RECORDED: Borgeas

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 6/29/22
AYES: Cortese, Durazo, Newman, Wiener
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 47-22, 5/25/22 - See last page for vote

SUBJECT: Public Utilities Commission: customer renewable energy subscription programs and the community renewable energy program

SOURCE: Coalition for Community Solar Access

DIGEST: This bill requires the California Public Utilities Commission (CPUC) to evaluate existing customer community renewable energy programs in order to modify and/or terminate programs. This bill also requires the CPUC to determine whether it is beneficial to ratepayers to develop a new or modify a tariff or program for community renewable energy by an electrical corporation, based on specified criteria, including ensuring at least 51 percent of the energy capacity serves low-income customers.

Senate Floor Amendments of 8/24/22 narrow the application of criteria exclusively to the new proposed program, address program eligibility to access federal incentives, delete the sunset on program reporting requirement, and delete unnecessary definitions for low-income eligibility for the program.

ANALYSIS:

Existing law:

1) Requires every electric utility, defined to include electrical corporations (IOUs), local publicly owned electric utilities (POUs), and electrical cooperatives, to develop a standard contract or tariff for net energy metering (NEM), for generation by a renewable electrical generation facility, and to make this contract or tariff available to eligible customer-generators until the time that the total rated generating capacity used by eligible customer generators exceeds five percent of the electric utility's aggregate customer peak demand. (Public Utilities Code §2827)

2) Requires the CPUC, for large electric IOUs, as defined, to have developed a second standard contract or tariff to provide NEM to additional eligible customer-generators in the IOU's service territory and imposes no limitation on the number of new eligible customer-generators. Requires the CPUC, in developing the second standard contract or tariff, to include specific alternatives designed for growth among residential customers in disadvantaged communities. (Public Utilities Code §2827.1)

3) Establishes the Green Tariff Shared Renewables Program (GTSR) with 600 megawatts (MW) of renewable resources available to customers of the three largest electric IOUs on a proportional basis to which a participating customer can subscribe. Requires the CPUC to ensure that charges and credits for the GTSR are set in a manner that ensures nonparticipant ratepayer indifference for the remaining bundled service, direct access, and community choice aggregation (CCAs) customers, and ensures that no costs are shifted from participating customers to nonparticipating ratepayers. (Public Utilities Code §2831, et seq.)

4) Imposes various requirements on public works projects, as defined, including a requirement that, at minimum, all workers employed on a public works project be paid the general prevailing rate of per diem wages for work of a similar character in the locality in which a public work is performed, as specified. (Labor Code §1720)

This bill:

1) Requires the CPUC, on or before March 31, 2024, to evaluate each customer renewable energy subscription program to determine if the program meets specified goals, to authorize the termination or modification of a program that does not meet those goals, and to determine whether it would be beneficial to ratepayers to establish a community renewable energy-program.

2) Requires the CPUC, on or before July 1, 2024, to establish that program if doing so would be beneficial to ratepayers and to require each electrical corporation to participate in that program.

3) Requires each CCA and energy service provider (ESP), within 180 days of the establishment of the program, to notify the CPUC whether it will participate in the program. Authorizes a CCA or ESP to begin participating in, or end its participation in, the program at any time by notifying the CPUC.

4) Requires each customer renewable energy subscription program and the community renewable energy program, if established, to:
   a) be complementary to, and consistent with, the requirements of the California Building Standards Code (Title 24 requirements for community solar);
   b) ensure at least 51 percent of its capacity serves low-income customers, (3) prohibit its costs from being paid by nonparticipating customers;
   c) require that the construction of its community renewable energy facilities comply with specified prevailing wage requirements; and
   d) provide bill credits to subscribers.

5) Requires the CPUC, on or before March 31, 2024, to report to the Legislature on actions taken as a result of its evaluation of each customer renewable energy subscription program, its justification for terminating, modifying, or retaining each program, and whether it would be beneficial to ratepayers to establish the community renewable energy program.

6) Requires the CPUC within 24 months of establishing the community renewable energy program and annually thereafter for four years, to submit a report to the Legislature on the facilities deployed, and customers subscribed, pursuant to the program.

Background

What is Community Solar? The U.S. Department of Energy defines community solar as any solar project or purchasing program, within a geographic area, in which the benefits of a solar project flow to multiple customers such as includes from various customer classes: residential, commercial, etc. Community solar can be designed in several ways, but the ultimate goal is to provide residents more options to participate in solar projects. In most cases, customers are benefitting from energy generated by solar panels at an off-site array; however, there are also on-site multifamily community solar options where occupants of apartment and condominium buildings each benefit from the energy produced from the rooftop solar project. Additionally, who pays to plan, construct, and operate the solar project varies across the different community solar modes – such as when a utility may own or operate a project that is open to voluntary ratepayer participation, or when customers themselves may collectively sign a contract with a third-party developer and be treated as departing load from their utility.

Community solar customers typically receive a bill credit for electricity generated by their share of the community solar system – similar to someone who has rooftop panels installed on their home and receives the NEM tariff. However, the value of that customer bill credit can also vary widely between community solar programs, with some more generous than others. Community solar can be a great option for people who do not own their homes, have financial constraints, or have insufficient roof conditions, such as shading, roof size, or other factors and who desire to participate in a solar project.

Existing Community Solar Programs. There are four main community solar programs currently in place for eligible customers of California's large electric IOUs: Disadvantaged Communities-Green Tariff (DAC-GT) program; Community Solar Green Tariff (CSGT) program; and GTSR program, which is comprised of two subprograms: the Green Tariff (GT) option, and the Enhanced Community Renewables (ECR) option.

GTSR program. SB 43 (Wolk, Chapter 413, Statutes of 2013) directed the CPUC to establish the GTSR program. GTSR has the overall objective of expanding customer access to renewable energy and to build up to 600 MW in additional renewable facilities. GTSR includes both a GT option and an ECR option. Pursuant to statute, the costs of GTSR may not be borne by nonparticipants. The two GTSR programs are similar in structure to the two disadvantaged communities (DAC) community solar programs mentioned previously.

The GT program provides a renewable facility is utility-scale and utility procured and is open to all customers of the three largest electric IOUs. GT customer pays the difference between their current charge for generation on their electric bill and the cost of procuring either 50 or 100 percent renewables. As of September 2019, 153 MW of new renewable capacity had been built.

The ECR program provides generation from a local solar project with a size limited to 20 MW. The facility developers must fulfill a "community interest requirement," where customers agree to purchase a share of a local solar project directly from a solar developer, and in exchange, the customer will receive a credit from their utility for the customer's avoided generation and for their share of the benefit of the solar development to the utility. As of September 2019, 10 MW of new renewable capacity had been built, six in Southern California Edison's (SCE's) territory and four in Pacific Gas & Electric's (PG&E's).

Community solar for disadvantaged communities. AB 327 (Perea, Chapter 611, Statutes of 2013) directed the CPUC to develop specific alternatives designed to increase adoption of renewable generation in disadvantaged communities. In 2018, the CPUC created several programs (Decision 18-06-027) aimed at increasing access to solar energy for residents of DAC located in one of the three large electric IOU distribution service territories. In order to offset the high costs of these projects, electric IOU greenhouse gas (GHG) auction proceeds and public purpose funds from non-participating ratepayers are utilized.

Solar ready buildings in the Title 24 Regulations. In May of 2018, as part of its regulation of building energy efficiency, the California Energy Commission (CEC) adopted a requirement for the installation of solar system capacity on all new low-rise residential buildings. The CEC regulations require (1) installation of a certain sized solar system on a newly constructed, low-rise residential building; (2) successful exemption from the installation requirement in the event of excessive shade, roof design or other defined factors; or (3) development of a community solar project that offsets the load of the newly constructed, low-rise residential building.

The Avoided Cost Calculator (ACC). The ACC is a complex determination of the benefits resources provide to the grid and all ratepayers. It calculates a monetary amount in $/kWh to value a resource. The ACC calculates the avoided costs of electricity resources based on generation energy, generation capacity, ancillary services, transmission and distribution capacity, GHG, and high global warming potential gases. The ACC is updated annually to improve the accuracy of how

benefits are calculated, taking inputs from various CPUC proceedings and California Independent System Operator (CAISO) wholesale market data.

Net Energy Metering (NEM). The vast majority of rooftop solar customers are enrolled in NEM (NEM 1.0) or NEM Successor (NEM 2.0) tariffs, established under Public Utilities Code §§2827 and 2827.1, respectively. The NEM program supports onsite renewable energy (largely rooftop solar) installations designed to offset a portion, or all, of the customer's electrical energy usage. Under NEM, customers receive a bill credit (in dollars) based on the retail rate (including generation, transmission, and distribution rate components) for any excess generation (in kWh) that is exported back to the grid. On August 27, 2020, the CPUC initiated Rulemaking (R. 20-08-020) to develop a successor to the NEM 2.0 tariff, as part of the requirement in statute and a commitment in a previous decision to review the current tariff to address the shift in costs to nonparticipating customers. The CPUC released a proposed decision in December 2021. However, a revised proposed decision is pending as the CPUC is currently soliciting additional stakeholder comments.

Comments

Another community solar program? This bill proposes another community solar program. The proponents point to short-comings of the numerous programs noted above. Under this bill, renewable energy projects interconnected to the distribution system will receive monetary credits that can be applied to the utility bills of customers who subscribe to the project. This bill credit rate would be based upon the project's value to the grid at the time of generation. The program would be open to any customers of an electric IOU, but, unlike GTSR, this bill authorizes CCA and ESP providers the option to provide the program to their energy load customers. Each eligible project would need to subscribe at least 51 percent of its capacity to low-income customers.

Requires evaluation of existing programs before initiating a new program. On June 1, 2022, the three electric IOUs filed applications with the CPUC for review of their community solar programs. The proceedings that will be initiated by these applications are expected to review the programs' goals, budget, capacity, design, implementation, and consumer protections. This bill requires the CPUC to complete its evaluation of existing community solar programs, and modify or terminate those programs, prior to initiating a new program. As such, this bill will help prevent duplicative programs.

Title 24 community solar compliance option. Builders are struggling to comply with the CEC's requirement and are looking to develop community solar projects

as a means of compliance, which builders note are much cheaper to develop than rooftop solar. The CEC's community solar compliance option is conceptually analogous to the ECR component of GTSR. The ECR component of the GTSR has been unsuccessful, to date, with only 10 MW (of a possible 600 MW) developed.

NEM proceeding and community solar. Coalition for Community Solar Access (CCSA), the sponsors of this bill, filed a proposal into the CPUC's NEM proceeding with some similarities to what is included in this bill. The CPUC's December 2020 proposed decision on NEM declined to adopt CCSA's proposal, stating it was premature and reiterating the CPUC's intent to review the broader aspects of community solar across the various programs. Nonetheless, the CPUC has not issued a final (or updated proposed) decision on NEM, so it is unclear whether the CPUC intends to address the interest from proponents of this bill to include a community solar option.

Prevailing wages for community renewable energy. In California, the prevailing wage rate is an hourly rate paid on public works projects that is often set in the terms of a collective bargaining agreement. Prevailing wage creates a level playing field by requiring an across-the-board rate for all bidders on publically subsidized projects. Residential rooftop solar installation does not currently require payment of the prevailing wage, as such, rooftop solar installers are generally making below the wage rate paid to other building and construction trade workers. This bill would require prevailing wages for the installation of the community renewable energy projects.

Related/Prior Legislation

AB 2838 (O'Donnell, 2022) authorizes the CPUC, beginning April 1, 2023, to authorize IOUs to terminate the GTSR programs. The bill is pending before the Governor.

SB 1385 (Cortese, 2022) establishes, by January 1, 2024, a new 1,500 MW multifamily housing local solar program that requires each large electrical corporation, as specified, to construct solar and storage systems in front of the customers' meters on or near multifamily housing. The bill sunsets the program as of January 1, 2027. The bill was held in the Assembly Appropriations Committee.

AB 693 (Eggman, Chapter 582, Statutes of 2015) created the Multifamily Affordable Housing Solar Roofs Program, to provide financial incentives for qualified solar installations at multifamily affordable housing properties funded from IOU's GHG allowances.

SB 43 (Wolk, Chapter 413, Statues of 2013) established, until January 1, 2019, a Shared Renewable Self Generation Program allowing IOU customers to purchase an interest in a "community renewable energy facility" and receive a bill credit for the generation component of the customer's electrical service.

AB 327 (Perea, Chapter 611, Statutes of 2013), among other provisions, required the CPUC to develop specific alternatives to the NEM tariff to ensure that customer-sited renewable distributed energy is available to residential customers in disadvantaged communities.

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

According to the Senate Appropriation Committee:

- Unknown ongoing costs, likely in the millions of dollars annually, and unknown one-time costs, likely in the hundreds of thousands of dollars, (ratepayer funds) for the CPUC to implement the provisions of this bill.

- Unknown, potentially significant costs to the state as an electrical ratepayer. The State of California is an electrical customer, purchasing roughly one percent of the state's electricity. As such, the state incurs costs when rates increase. This bill could result in higher costs on the state as a ratepayer.

SUPPORT: (Verified 8/24/22)

Coalition for Community Solar Access (source)
350 Silicon Valley
Arcadia Power
Asian Pacific Environmental Network
BlueGreen Alliance
Building Owners & Managers of California
California Apartment Association
California Building Industries Association
California Business Properties Association
California Environmental Justice Alliance
California Environmental Voters
California Wind Energy Association
Coalition for Community Solar Access
Coalition of California Utility Employees
Cypress Creek Renewables
E2 (Environmental Entrepreneurs)
Environmental Defense Fund

Friends Committee on Legislation
GRID Alternatives
Natural Resources Defense Council
Prologis Management
Sierra Club California
The Utility Reform Network
Union of Concerned Scientists
Vote Solar

OPPOSITION: (Verified 8/24/22)

California Solar & Storage Association
Pacific Gas and Electric Company

ARGUMENTS IN SUPPORT: According to the author, "California has some of the most ambitious renewable energy goals in the world, including being powered by 60% renewable energy by 2030 and 100% carbon-free electricity by 2045. Equal access to solar and equality in the clean energy economy are essential to achieving these goals. Unfortunately, of the majority of California households do not have access to local solar power, including some of California's most disadvantaged communities. Assembly Bill 2316 would create a cost-effective community renewable energy program that leverages the ability to combine distributed renewable resources with energy storage to provide all Californians with an option to access the benefits of distributed generation."

ARGUMENTS IN OPPOSITION: In opposition this bill, the California Solar & Storage Association contends this bill would undermine the standard to require solar on all new buildings. They suggest explicit statutory limitations to limit the buildings that would be eligible to utilize this compliance option.

Pacific Gas and Electric Company opposes this bill due to potential costs on their customers, both participating and nonparticipating. They also express concerns that the proposed program is not necessary and duplicative of existing related programs.

ASSEMBLY FLOOR: 47-22, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Carrillo, Cooley, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk-Silva, Reyes, Luz Rivas,

Robert Rivas, Blanca Rubio, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Mayes, Nguyen, Patterson, Quirk, Salas, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Calderon, Cervantes, Cooper, Daly, O'Donnell, Ramos, Rodriguez, Villapudua

Prepared by: Nidia Bautista / E., U. & C. / (916) 651-4107
8/26/22 15:47:35

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

SENATE RULES COMMITTEE AB 2319
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2319
Author: Mia Bonta (D)
Amended: 8/22/22 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/15/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE HOUSING COMMITTEE: 7-0, 6/21/22
AYES: Wiener, Caballero, Cortese, McGuire, Roth, Skinner, Umberg
NO VOTE RECORDED: Bates, Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 64-3, 5/25/22 - See last page for vote

SUBJECT: Surplus land: former military base land

SOURCE: City of Alameda

DIGEST: This bill establishes a new category of exempt surplus land for the former military base Alameda Naval Air Station (Alameda Point).

Senate Floor Amendments of 8/22/22 require at least 25 percent of the initial 1,400 residential units developed at the site to be affordable to lower income households, as specified; require that the recipient of land must negotiate a project labor agreement consistent with an existing project stabilization agreement resolution prior to disposal; and make other technical changes.

ANALYSIS:

Existing law:

1) Establishes procedures for disposal of land surplus to the needs of local agencies, under Surplus Land Act, including to:

a) Require local officials that want to dispose of public property to declare that the land is no longer needed for the agency's use in a public meeting and declare the land either "surplus land" or "exempt surplus land."

b) Designate certain types of land as "exempt surplus land," which doesn't have to meet the requirements of the Surplus Land Act.

c) Require local agencies to follow the procedures laid out in the Act before surplus land can be sold, including to:

   i) Send a written notice of availability to various public agencies and nonprofit groups, referred to as "housing sponsors," notifying them that land is available for the following purposes:

      (1) Low- and moderate-income housing;
      (2) Park and recreation, and open space;
      (3) School facilities; or
      (4) Infill opportunity zones or transit village plans.

   ii) Negotiate in good faith for 90 days with housing sponsors that respond.

d) Allows the local agency to dispose of the property on the private market if agreement isn't reached with a housing sponsor.

e) Requires that, if a property sold as surplus is not sold to a housing sponsor, but housing is developed on it later, 15 percent of the units must be sold or rented at an affordable cost to lower income households.

f) Imposes specified penalties for violations of the Surplus Land Act.

This bill:

1) Establishes a new category of exempt surplus land for Alameda Point, provided that all of the following conditions are met:

   a) The former military base has an aggregate area greater than five acres, is expected to include a mix of residential and nonresidential uses, and is expected to include no fewer than 1,400 residential units upon completion of development or redevelopment of the former military base;

   b) The affordability requirements for residential units are governed by a settlement agreement entered into prior to September 1, 2020, and at least 25

percent of the initial 1,400 units developed are restricted to lower income households, as specified;

c) Prior to disposition of the surplus land, the agency adopts an written finding that the land is exempt surplus land;

d) Prior to the disposition of the surplus land, the recipient has negotiated a project labor agreement consistent with the local agency's project stabilization agreement resolution, as adopted on February 2, 2021, and any succeeding ordinance, resolution, or policy, regardless of the length of the agreement between the local agency and the recipient; and

e) The agency includes in its Annual Progress Report to the Department of Housing and Community Development (HCD), the status of development of residential units on the former military base, including the total number of residential units that have been permitted and what percentage of those residential units are affordable to moderate and lower-income households.

2) Provides that violations of the provisions added by the bill are subject to the penalties under the Surplus Land Act, and that these penalties are in addition to any remedy a court may order for violation of the settlement agreement.

3) Includes findings and declarations to support its purposes.

Background

The end of the Cold War forced the Department of Defense to adjust to new geopolitical realities. Federal officials closed or realigned nearly three dozen military bases in California. Upon their closure, the Department of Defense along with local agencies designated local reuse authorities to guide the future use of the base. In one case, an entirely new state entity was created to guide the development of Ford Ord. In other cases, like the Mare Island Naval Shipyard in the City of Vallejo, the city took responsibility for repurposing the base. These former bases have become homes to higher education institutions like California State University, Monterey Bay, and others serve important affordable housing purposes, like the Bay Public Works Center on Alameda Island.

The Alameda Naval Air Station (Alameda Point) is among the nearly 30 military bases in California closed by the federal government at the end of the Cold War. In 1996, the Legislature designated the City of Alameda as the "local reuse entity" to manage the conversion of Alameda Point to civilian uses (AB 3129, Lee, 1996).

Alameda officials adopted their redevelopment plan on March 2, 1998. The plan calls for mixed-use development that includes up to 2,300 units of housing.

In the spring of 2000, an action commenced in Alameda Superior Court (*Renewed Hope Housing Advocates and Arc Ecology v. City of Alameda*, et al.) challenging the Environmental Impact Report for the reuse of Alameda Point. The parties eventually settled in March of 2001 on multiple matters, including the construction of affordable housing on the base. The agreement stipulated that 25 percent of all newly constructed housing units at Alameda Point must be made permanently affordable, as specified.

This requirement applies to each residential development project at Alameda Point, and the City of Alameda cannot approve any residential development projects on the base that do not comply.

Surplus Land Act and military base reuse. The recent amendments to the Surplus Land Act have come into conflict with local agencies' plans and obligations to redevelop former military bases. Specifically, at Alameda Point, pursuant to the recent changes to the Surplus Land Act, the City of Alameda is obligated to make the former military base available to various entities for possible development of housing, open space, etc. This obligation conflicts with the federally-approved reuse plan and the prior agreement the City had entered into with the Navy to redevelop Alameda Point because the base reuse plan identifies specific uses for properties, including economic development purposes. Accordingly, developing housing where it is not designated in the base reuse plan would be inconsistent with the plan and violate the conditions place on the property as a result of the transfer from the federal government to the City.

In addition, HCD has interpreted the Surplus Land Act to include leases in the definition of disposal. This interpretation has limited the City's ability to lease vacated military buildings for interim uses, an essential component of the reuse plan as well as the City's economic revitalization plan to offset the loss of jobs and tax revenue from the closure of Alameda Point. The interim lease of vacant buildings for economic revitalization helps finance ongoing cleanup and development over the lifetime of the Alameda Point project. An example of the conflict is the inability of the Alameda Point Collaborative (APC) to move forward with a project that will replace dilapidated units now housing homeless people and build an additional 112 units for the homeless.

To address these conflicts, the City of Alameda wants the Legislature to exempt Alameda Point from the Surplus Land Act.

Comments

1) *Purpose of the bill*. According to the author, "AB 2319 will expedite the construction of low-, very low- and moderate-income housing at Alameda Naval Air Station (Alameda Point). These critical projects have been dramatically slowed due to the state's interpretation of how the Surplus Land Act should apply to the project. The construction of low-, very low- and moderate-income units at this former Naval base is particularly beneficial to this community. There is an existing settlement agreement between the City of Alameda and a local nonprofit, Renewed Hope, requiring 25% of all housing units at the former Naval base to be low-, very low- or moderate-income housing, which is higher than the 15% inclusionary zoning requirement in the remainder of the City of Alameda. Due to the unique circumstance the City of Alameda finds itself, AB 2319 is narrowly tailored to just apply to the former Naval base in Alameda."

2) *Broader changes needed?* AB 2319 is one of a parade of bills attempting to address issues with the Surplus Land Act that have come to light since the enactment of AB 1486. Several of these bills have enacted, or would create, exemptions to the Surplus Land Act to enable the development of worthy causes, including the development of affordable housing on an important transit corridor in the San Diego Area (SB 51, Durazo, 2021), the Metro North Hollywood Joint Development project (AB 175, Committee on Budget, 2021), the Tustin military base (SB 719, Min, 2021), and several economic development projects in the City of Los Angeles (SB 1373, Kamlager, 2021). In the case of Alameda Point, the affordable housing requirements imposed through the settlement agreement actually exceed the requirements of the SLA: at least 16 percent of the units developed on the former base must be affordable to lower-income households under the settlement agreement (plus an additional 9 percent moderate-income housing) rather than 15 percent under the Surplus Land Act. Accordingly, the sponsor of AB 2319 is seeking an exemption not because they oppose affordable housing, but because the Surplus Land Act conflicts with their federally-approved base reuse plan. This conflict has stalled their ability to dispose of the property for development—including development of affordable housing that the Surplus Land Act attempts to encourage. Broader conversations may need to be had concerning the efficacy of the Surplus Land Act in producing affordable housing versus the impacts to local government plans for affordable housing and other development in their jurisdiction.

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

SUPPORT: (Verified 8/23/22)

City of Alameda (source)
Alameda Point Collaborative
Building Futures with Women and Children
Operation Dignity Inc.

OPPOSITION: (Verified 8/23/22)

Western Electrical Contractors Association

ASSEMBLY FLOOR: 64-3, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Davies, Mike Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Megan Dahle, Mathis
NO VOTE RECORDED: Berman, Chen, Choi, Flora, Fong, Kiley, Nguyen, O'Donnell, Patterson, Smith, Voepel

Prepared by: Anton Favorini-Csorba / GOV. & F. / (916) 651-4119
8/23/22 14:43:41

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

SENATE RULES COMMITTEE AB 2329
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2329
Author: Carrillo (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 6-0, 6/15/22
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, McGuire, Pan
NO VOTE RECORDED: Glazer

SENATE JUDICIARY COMMITTEE: 11-0, 6/21/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, McGuire, Stern, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 61-0, 5/5/22 (Consent) - See last page for vote

SUBJECT: Pupil health: eye examinations: schoolsites

SOURCE: Los Angeles Unified School District

DIGEST: This bill authorizes a local education agency (LEA) and charter schools to enter into a memorandum of understanding (MOU) with a nonprofit vision examination provider, including, but not limited to, a nonprofit mobile vision examination provider; requires notification to parents; and deems that informed medical consent has been given if the parent does not opt-out of the examination in writing.

Senate Floor Amendments of 8/25/22/ make technical amendments.

ANALYSIS:

Existing law:

1) Requires the governing board of any school district to provide for the testing of the sight and hearing of each pupil enrolled in the schools of the district. The

test shall be adequate in nature and shall be given only by duly qualified supervisors of health employed by the district; or by certificated employees of the district or of the county superintendent of schools who possess the qualifications prescribed by the Commission for Teacher Preparation and Licensing; or by contract with an agency duly authorized to perform those services by the county superintendent of schools of the county in which the district is located. (Education Code 49452)

2) States during the kindergarten year or upon first enrollment or entry in a California school district of a pupil at an elementary school, and in grades 2, 5, and 8, the pupil's vision shall be appraised by the school nurse or other authorized person. (Education Code § 49455(a))

3) Specifies that school districts are not precluded from utilizing community-based service providers, including volunteers, individuals completing counseling-related internship programs, and state licensed individuals and agencies to assist in providing pupil personnel services, provided that such individuals and agencies are supervised in their school-based activities by an individual holding a pupil personnel services authorization. (California Code of Regulations, Title 5, Section 80049.1(c))

4) States a parent or guardian having control or charge of any child enrolled in the public schools may file annually with the principal of the school, in which he is enrolled, a statement in writing, signed by the parent or guardian, stating that he will not consent to a physical examination of his child. Thereupon the child shall be exempt from any physical examination, but whenever there is a good reason to believe that the child is suffering from a recognized contagious or infectious disease, he shall be sent home and shall not be permitted to return until the school authorities are satisfied that any contagious or infectious disease does not exist. (EC § 49451)

This bill authorizes a LEA and charter schools to enter into a MOU with a nonprofit vision examination provider, including, but not limited to, a nonprofit mobile vision examination provider; requires notification to parents; and deems that informed medical consent has been given if the parent does not opt-out of the examination in writing. Specifically, this bill:

1) Authorizes a public school maintaining kindergarten or any of grades 1 to 12, inclusive, to enter into an MOU with a nonprofit mobile vision examination provider to provide vision examinations to pupils at the schoolsite of the public school.

2) Clarifies that vision examinations provided by a nonprofit mobile vision examination provider under this section shall be supplemental to, and shall not replace, the vision screenings as specified in current law.

3) Clarifies a vision examination provided by a nonprofit mobile vision examination provider shall be noninvasive and provided exclusively for the purpose of providing vision examinations and eyeglasses.

4) Specifies that a mobile vision examination provider providing vision examination pursuant to this section shall provide reports to parents and guardians as specified.

5) Requires a schoolsite of a public school to have an MOU in place with a nonprofit mobile vision examination provider before a vision examination is provided.

6) Requires a public school to notify parents and guardians of the upcoming provision of vision examinations at the schoolsite.

7) Specifies that a notification to parents and guardians shall include a form in which a parent or guardian may indicate that they do not consent to a vision examination being provided to their child and, upon a parent or guardian completing and submitting that form to the public school, may opt-out of their child receiving a vision examination.

8) Clarifies that notwithstanding the submittal of a written statement exempting a child from any physical examination, a parent or guardian having control or charge of any child enrolled in the public school may consent to a vision examination by submitting a written consent to the examination to the public school.

9) States that no later than March 1, 2023, the California Department of Education (CDE) shall develop and post on appropriate department internet websites a model opt-out form.

10) Clarifies participating licensed health care professionals, including independent contractors of those professionals, shall have immunity from civil and criminal liability, and shall not be subject to disciplinary action by a licensing board, for providing services that are authorized by this section without parent or guardian consent.

11) Clarifies a participating public schools shall have immunity from civil and criminal liability for providing services that are authorized by this section without parent or guardian consent

12) Specifies a public school, the State of California, or a participating licensed health care professionals, including independent contractors of those professionals, who provide services on the behalf of a mobile vision examination provider may be subject to the following:

    a) A person's liability for damages caused by an act or omission that constitutes gross negligence or willful or wanton misconduct.

    b) A person's culpability for an act that constitutes a crime and is not specifically authorized by the MOU between the school and a nonprofit mobile vision examination provider.

    c) The ability of a licensing board to take disciplinary action against a licensed health care professional for an act not specifically authorized by the MOU between the school and a nonprofit mobile vision examination provider.

    d) The ability of a parent or guardian, having control or charge of a pupil enrolled in the public school stating that they do not consent to a physical examination of their child, thereby exempting the pupil from any physical examination, including, but not limited to, the vision examination unless the parent or guardian have provided written consent to the school.

13) States that vision examination providers providing vision examinations to pupils at a public school are subject to, and shall comply with existing law as specified.

14) Requires any nonprofit mobile vision examination provider, participating licensed health care professional, including independent contractors of these professionals, or other entity providing services to have a background check prior to interacting with any pupils.

Comments

1) *Need for the bill.* According to the author "According to the American Optometric Association, a child trying to cope with untreated vision problems is likely to experience learning difficulties, which lead to disengagement in the classroom, physical education, and extracurricular activities. They may even experience physical symptoms, such as headaches and fatigue. Vision is critical to classroom learning. In fact, up to 80% of the information that a child

learns at school is from visual presentations. A 2021 1 study showed that addressing a pupil's vision problem, between third and seventh grade, had an immediate and meaningful positive impact on reading scores. Specifically, this bill would authorize a public school to enter into a memorandum of understanding with a nonprofit mobile vision provider to offer noninvasive vision exams and eyeglasses to students at the school site. It would also provide parents with an opportunity to opt out of their child receiving these vision care services through a form developed by the State Department of Education."

2) *CDE Guidelines (2019).* California public schools are committed to providing equal educational opportunities to all students. The school vision screening program has a vital role in the early identification of serious vision problems that may contribute to academic disparities. A vision screening program meets state requirements when it is provided under the direction of qualified personnel. The major objectives of the vision screening program are to:

   a) Identify students with potential vision deficits through:

      i) Administration of selected vision screening tools.

      ii) Planned procedures of observation.

   b) Notify parents of each student identified as having a possible vision deficit and encourage further examination through a professional comprehensive eye and vision evaluation.

   c) Establish follow-up procedures that will ensure that each identified student receives appropriate follow-up care.

   d) Inform teachers of students who have vision deficits about vision eye care professionals' recommendations and assist them in planning for needed adjustments in the educational program.

   Personnel Authorized to Conduct Screening. Only the following persons shall conduct vision screening:

   a) Duly qualified supervisors of health employed by the school district or county offices of education (COE).

   b) A registered nurse who holds both (i) a license from the appropriate California board or agency; and (ii) a health and development credential, a standard designated service credential with a specialization in health, a

health services eight credential as a school nurse, or a school nurse services credential.

c) Certificated school district or county employees who hold a teaching credential and are qualified by training, including satisfactory completion of one six hours of vision screening or an accredited college or university course in vision screening of at least one-semester unit.

d) Contracting agents who have met the requirements noted above and who have been authorized by the County Superintendent of Schools in which the district is located to perform tests.

Legal Requirements for Periodicity of the School Screening Program.

Grade Level	Distance Vision	Near Vision	Color Vision Deficiency
Transitional Kindergarten/Kindergarten	Required	Required	Not Required
Grade 1	Not Required	Not Required	Required
Grade 2	Required	Required	Required in subsequent years only if not screened in grade 1
Grade 5	Required	Required	See Above
Grade 8	Required	Required	See Above
Special Education	Required	Required	Required

While the education code does not require vision screening of preschool students, the National Expert Panel to the National Center for Children's Vision recommends vision screening for children ages three, four, and five years for eye and visual system disorders. Best practice for this age group is screening at least once (accepted minimum standard) or optimally, annually. Preschoolers at risk for vision disorders and those with noticeable eye abnormalities, i.e., strabismus, and ptosis, should be referred directly to an eye care professional. Personnel in a school district or COE who may be required or permitted to screen vision shall be qualified to conduct such tests.

3) *Los Angeles County Pilot Program.* In an effort to determine whether children's access to and utilization of, vision care services can be increased by providing vision care services at schools, existing law required the California Department of Health Care Services to establish a pilot program in the County of Los Angeles that enables school districts to allow students enrolled in Medi-Cal managed care plans to receive vision care services at the schoolsite through the use of a mobile vision service provider. The vision care services available

under this pilot program were limited to vision examinations and providing eyeglasses and are supplemental to the vision testing required by schools in the Education Code. The pilot program operated for two years from January 1, 2015, to January 1, 2017. The Budget Act of 2018 appropriated $1 million to reimburse a qualifying mobile vision service provider for furnishing mobile vision care services previously covered under the pilot program and not otherwise reimbursable under the Medi-Cal program for dates of service on or after July 1, 2018, through December 31, 2018.

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

SUPPORT: (Verified 8/25/22)

Los Angeles Unified School District (source)
California Federation of Teachers, AFL-CIO
Communities in Schools of Los Angeles
Los Angeles Trust for Children's Health
National Association of Pediatric Nurse Practitioners

OPPOSITION: (Verified 8/25/22)

None received

ARGUMENTS IN SUPPORT: According to the sponsors "On average, pre-pandemic, Los Angeles Unified provided between 13,000 and 16,000 student vision examinations per semester by various district partners. All students are screened at each school and a consent is not required for screening; however, parent consent is required for an eye examination. The goal of AB 2329 is to provide more students access to no-cost vision exams. School districts will need to enter into a memorandum of understanding with a vision examination provider regarding their partnership and scope of the program, and then provide a reasonable amount of time to allow parents to opt-out of the scheduled vision exam. This bill is permissive in nature for school districts that desire to offer these programs, but it is not mandatory. Through AB 2329, Los Angeles Unified seeks to narrow opportunity gaps and to decrease the burdens of poverty as we continue to focus on addressing the academic, social-emotional, and health needs of every student. AB 2329 achieves this goal, and has the potential of providing opportunities for tens of thousands of students across the state"

ASSEMBLY FLOOR: 61-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle,

Daly, Davies, Mike Fong, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Ward, Akilah Weber, Wilson, Wood, Rendon

NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Friedman, Gallagher, Cristina Garcia, Gipson, Levine, McCarty, Medina, Villapudua, Waldron, Wicks

Prepared by: Kordell Hampton / ED. / (916) 651-4105
8/26/22 15:47:36

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

SENATE RULES COMMITTEE AB 2334
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2334
Author: Wicks (D), et al.
Amended: 8/24/22 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 8-1, 6/13/22
AYES: Wiener, Caballero, Cortese, McGuire, Ochoa Bogh, Skinner, Umberg, Wieckowski
NOES: Bates

SENATE GOVERNANCE & FIN. COMMITTEE: 4-1, 6/29/22
AYES: Caballero, Durazo, Hertzberg, Wiener
NOES: Nielsen

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 49-22, 5/26/22 - See last page for vote

SUBJECT: Density Bonus Law: affordability: incentives or concessions in very low vehicle travel areas: parking standards: definitions

SOURCE: Author

DIGEST: This bill allows a housing development project to receive added height and unlimited density if the project is located in an urbanized very low vehicle travel area in specified counties, at least 80% of the units are restricted to lower income households, and no more than 20% are for moderate-income households.

Senate Floor Amendments of 8/24/22 resolve chaptering conflicts with AB 682 (Bloom).

Senate Floor Amendments of 8/18/22 update the definition of maximum allowable residential density and clarify that these maximum residential controls on density only apply to those counties identified in this bill.

ANALYSIS:

Existing law:

1) Requires each city and county to submit an annual progress report (APR), annually by April 1, to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes data points and updates on housing plans and approvals.

2) Requires each city and county to adopt an ordinance that specifies how it will implement state Density Bonus Law (DBL). Requires cities and counties to grant a density bonus when an applicant for a housing development of five or more units seeks and agrees to construct a project that will contain at least one of the following:

   a) 10% of the total units of a housing development for lower income households;
   b) 5% of the total units of a housing development for very low-income households;
   c) A senior citizen housing development or mobile home park;
   d) 10% of the units in a CID for moderate-income households;
   e) 10% of the total units for transitional foster youth, disabled veterans, or homeless persons;
   f) 20% of the total units for lower-income students in a student housing development; or
   g) 100% of the units of a housing development for lower-income households, except that 20% of units may be for moderate-income households.

3) Requires a city or county to allow an increase in density on a sliding scale from 20% to 50%, depending on the percentage of units affordable to low- and very low-income households, over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan. Requires the increase in density on a sliding scale for moderate-income for-sale developments from 5% to 50% over the otherwise allowable residential density.

4) Provides that upon the request of a developer, a city or county shall not require a vehicular parking ratio, inclusive of disabled and guest parking, that meets the following ratios:

   a) Zero to one bedroom — one onsite parking space.
   b) Two to three bedrooms — one and one-half onsite parking spaces.

c) Four and more bedrooms — two and one-half parking spaces.

5) Provides, notwithstanding 4) above, that a city or county shall not impose a parking ratio higher than 0.5 spaces per unit, nor any parking standards, for a project that is:

   a) Located within one-half mile of a major transit stop and the residents have unobstructed access to the transit stop; or
   b) A for-rent housing development for individuals who are 62 years or older and the residents have either access to paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

6) Provides, notwithstanding 4) and 5) above, that a city or county shall not impose any minimum parking requirement on a housing development that consists solely of rental units for lower income families and the is either a special needs or a supportive housing development.

7) Provides that the applicant shall receive the following number of incentives or concessions:

   a) One incentive or concession for projects that include at least 10% of the total units for moderate-income households, 10% of the total units for lower-income households, or at least 5% for very low-income households.
   b) Two incentives or concessions for projects that include at least 20% of the total units for moderate-income households, 17% of the total units for lower income households, or least 10% for very low income households.
   c) Three incentives or concessions for projects that include at least 30% of the total units for moderate-income households 24% of the total units for lower-income households, or at least 15% for very low-income households.
   d) Four incentives or concessions for projects where 100% of the units of a housing development for lower-income households, except that 20% of units may be for moderate-income households, as well as a height increase up to 33 feet if the project is located within one-half mile of a transit stop.

8) Resolves chaptering conflicts with AB 682 (Bloom).

This bill:

1) Defines "very low vehicle travel area" to mean an urbanized area, as defined by the Census Bureau, where the existing residential development generates vehicle miles traveled (VMT) per capita that is below 85% of either regional or

city VMT per capita. "Region" is the entirety of incorporated and unincorporated areas governed by a multicounty or single-county metropolitan planning organization (MPO), or the entirety of the incorporated and unincorporated areas of an individual county that is not part of an MPO.

2) Expands the following provisions, which currently apply to housing developments within one-half mile of a major transit stop that restrict at least 80% of units for lower income households and no more than 20% of units for moderate income households, to developments that are located in an urbanized low vehicle travel area:

   a) A height increase of up to three additional stories, or 33 feet; and
   b) No imposition of maximum controls on density by the local government.

3) Requires the rents for specified units in housing development projects that receives a density bonus to be consistent with the maximum rent levels for lower income households as determined by the California Tax Credit Allocation Committee.

4) Provides that as part of an equity sharing agreement a local government may defer to the recapture provisions of a public funding source.

5) Updates the definition of maximum allowable residential density.

6) Provides that if the density under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan or specific plan, the greater shall prevail.

7) Changes the resident age requirement for a specified development to receive an elimination of parking minimums from the current 62 years of age or older to instead be 55 years or older.

8) Applies the provisions of this bill only to the counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, Sonoma, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Ventura, Sacramento, and Santa Barbara.

Background

Given California's high land and construction costs for housing, it is extremely difficult for the private market to provide housing units that are affordable to low- and even moderate-income households. Public subsidy is often required to fill the financial gap on affordable units. DBL allows public entities to reduce or even

eliminate subsidies for a particular project by allowing a developer to include more total units in a project than would otherwise be allowed by the local zoning ordinance, in exchange for affordable units. Allowing more total units permits the developer to spread the cost of the affordable units more broadly over the market-rate units.

Under existing law, if a developer proposes to construct a housing development with a specified percentage of affordable units, the city or county must provide all of the following benefits: a density bonus; incentives or concessions; waiver of any development standards that prevent the developer from utilizing the density bonus or incentives; and reduced parking standards.

To qualify for benefits under DBL, a proposed housing development must contain a minimum percentage of affordable housing (see 2) under "Existing law"). If one of these options is met, a developer is entitled to a base increase in density for the project as a whole (referred to as a density bonus) and one regulatory incentive. Under DBL, a developer is entitled to a sliding scale of density bonuses, up to a maximum of 50% of the maximum zoning density and up to four incentives, as specified, depending on the percentage of affordable housing included in the project. At the low end, a developer receives 20% additional density for 5% very low-income units and 20% density for 10% low-income units. The maximum additional density permitted is 50%, in exchange for 15% very low-income units and 24% low-income units. The developer also negotiates additional incentives, reduced parking, and design standard waivers, with the local government. This helps developers reduce costs while enabling a local government to determine what changes make the most sense for that site and community.

Comments

Incentivizing Affordable Infill Housing. California has taken a number of steps to promote more sustainable urban infill housing including through the use of density bonus law. Specifically, in 2019 the Legislature passed and Governor Newsom signed into law AB 1763 (Chiu, Chapter 666, Statutes of 2019), a bill that allowed for an enhanced density bonus for certain affordable housing projects located within one-half mile of a major transit stop. AB 1763 gives affordable housing projects the ability to receive unlimited density and a height increase of 33 feet or three stories. To receive this enhanced density bonus at least 80% of the units must be reserved for lower-income households and no more than 20% can be for moderate-income individuals and families.

While AB 1763 made it easier to build dense, affordable housing near transit, many parts of the state lack the level of public transportation service necessary to

qualify for the enhanced density bonus the legislation allowed. Within these areas of the state it is still important to promote housing in urbanized areas that allow residents to reduce their reliance on vehicle travel. This bill proposes to expand AB 1763's enhanced density bonus provisions to cover very low vehicle travel areas in urbanized areas where existing residential development generates VMT that is below 85% of either the region or city's per capita VMT.

In the coming months the Governor's Office of Planning and Research will be releasing maps that indicate very low VMT areas within certain regions. Additionally, under SB 743 (Steinberg, Chapter 386, Statutes of 2013), guidelines for evaluating transportation impacts under the California Environmental Quality Act were updated to better assess transportation-related environmental impacts of proposed development projects.

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

SUPPORT: (Verified 8/8/22)

Affirmed Housing
All Home
AMCAL
American Planning Association, California Chapter
AMG & Associates, LLC
Bridge Housing Corporation
Brilliant Corners
California Apartment Association
California Association of Local Housing Finance Agencies
California Council for Affordable Housing
California Housing Consortium
California Housing Partnership Corporation
California Rural Legal Assistance Foundation
California YIMBY
Central City Association
Circulate San Diego
CivicWell
Community Corporation of Santa Monica
Community Housingworks
CRP Affordable Housing and Community Development
EAH Housing
Eden Housing
First Community Housing

Housing California
Integrity Housing
John Stewart Co
Jonathan Rose Companies
LA Family Housing
LINC Housing
Mercy Housing
Merritt Community Capital Corporation
MidPen Housing Corporation
Non-Profit Housing Association of Northern California
San Francisco Bay Area Planning and Urban Research Association
South Bay YIMBY
South Pasadena Residents for Responsible Growth
Southern California Association of Non-profit Housing
SV@Home Action Fund
Terner Center for Housing Innovation at the University of California, Berkeley
The Pacific Companies
The Two Hundred
Thomas Safran & Associates
Wakeland Housing and Development Corporation
Western Center on Law & Poverty

OPPOSITION: (Verified 8/8/22)

Association of California Cities - Orange County
Catalysts for Local Control
City of Newport Beach
Livable California

ARGUMENTS IN SUPPORT: According to the author, "we have seen firsthand the essential role affordable housing has played during the pandemic, providing shelter, support, and community to some of our state's most vulnerable groups—including seniors and veterans, teachers and firefighters, disabled persons and the far too many working families that cannot afford the rising cost of market rents. With a gap of 1.2 million homes affordable to low income households and roughly 150,000 people experiencing homelessness every day, the state must continue to strengthen policies that increase the number of affordable units being constructed. AB 2334 promotes housing construction by expanding the California's Density Bonus Law creating opportunities for 100% affordable housing developments to earn an enhanced density bonus in areas with low vehicle miles traveled."

ARGUMENTS IN OPPOSITION: The Association of California Cities - Orange County and the City of Newport Beach are opposed due to the loss of local control. Community groups are opposed to reductions in parking requirements and unrelated housing laws.

ASSEMBLY FLOOR: 49-22, 5/26/22
AYES: Aguiar-Curry, Arambula, Bennett, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Mayes, McCarty, Medina, Mullin, Nazarian, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bauer-Kahan, Bigelow, Boerner Horvath, Chen, Choi, Cooley, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Lackey, Mathis, Muratsuchi, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Irwin, Kiley, Maienschein, O'Donnell, Petrie-Norris, Villapudua

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8/26/22 15:47:37

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

SENATE RULES COMMITTEE AB 2339
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2339
Author: Bloom (D)
Amended: 8/25/22 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 8-1, 6/13/22
AYES: Wiener, Caballero, Cortese, McGuire, Ochoa Bogh, Skinner, Umberg, Wieckowski
NOES: Bates

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 55-16, 5/25/22 - See last page for vote

SUBJECT: Housing element: emergency shelters: regional housing need

SOURCE: California Rural Legal Assistance Foundation
Public Interest Law Project
Western Center on Law & Poverty

DIGEST: This bill makes changes to housing element law with regards to where shelters may be zoned, as specified.

Senate Floor Amendments of 8/25/22 provide clarity regarding calculations for site capacity for persons experiencing homelessness.

ANALYSIS:

Existing law:

1) Requires cities and counties to prepare and adopt a general plan, including a housing element, to guide the future growth of a community. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policy objectives, financial resources,

and scheduled programs for the preservation, improvement, and development of housing.

2) Requires the housing element to contain an inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level.

3) Requires the housing element to contain a program that sets forth a schedule of actions during the planning period that will be taken to make sites available with appropriate zoning and development standards to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory of sites without rezoning.

4) Requires the housing element to contain the identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or discretionary permit. Shelters may be subject to development and management standards that apply to residential and commercial development within the same zone except that a local government may apply written, objective standards that include all of the following:

    a) The maximum number of beds or persons permitted to be served nightly by the facility.
    b) Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone.
    c) The size and location of exterior and interior onsite waiting and client intake areas.
    d) The provision of onsite management.
    e) The proximity to other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart.
    f) The length of stay.
    g) Lighting.
    h) Security during hours that the emergency shelter is in operation.

This bill:

1) Changes the requirements regarding identification of zones and sites for emergency shelters in housing elements, as follows:

a) Expands the definition of "emergency shelters" to include other interim interventions, including but not limited to, navigation centers, bridge housing, and respite or recuperative care;
b) Requires that zoning designations identified to allow emergency shelters ministerially must allow residential uses;
c) Requires the zoning designations that allow emergency shelters to have sufficient sites to accommodate the need for shelters;
d) Specifies that the zoning designations where emergency shelters are allowed must include sites that meet at least one of the following standards:

    i) Vacant sites zoned for residential use;
    ii) Vacant sites zoned for nonresidential use that allow residential development, if the local government can demonstrate how the sites with the is zoning designation are located near amenities and services that serve people experiencing homelessness, which may include health care, transportation, retail, employment, and social services, or that the local government will provide free transportation to services or offer services onsite; and
    iii) Nonvacant sites zoned for residential use or for nonresidential use that allow residential development that are suitable for use as a shelter in the current planning period or which can be redeveloped for use as a shelter in the current planning period. A nonvacant site with an existing use is presumed to impede emergency shelter development unless the local agency finds that the use is likely to be discontinued during the planning period, as specified.

e) Narrows the potential development and management standards that a local government can apply to emergency shelters to those written, objective standards already contained in existing law.
f) Authorizes a local government to accommodate the need for emergency shelters on sites owned by the local government if it demonstrates with substantial evidence that the sites will be made available for emergency shelter during the planning period, they are suitable for residential use, and the sites are located near amenities and services that serve people experiencing homelessness, which may include health care, transportation, retail, employment, and social services, or that the local government will provide free transportation to services or offer services onsite.

2) Amends the "no net loss" policy in housing element law to factor in sites that the local government rezoned in the current planning period because they failed to rezone them in the prior planning period.

Comments

1) *Inadequate housing and shelter for California's homeless*. Homelessness in California is no longer confined to urban corridors; it pervades both urban and rural communities across the state and puts stress on local resources, from emergency rooms to mental health and social services programs to jails. The homelessness crisis is driven in part by the lack of affordable rental housing for lower income people. In the current market, 2.2 million extremely low-income and very low-income renter households are competing for 664,000 affordable rental units. Of the 6 million renter households in the state, 1.7 million are paying more than 50% of their income towards rent. The National Low Income Housing Coalition estimates that the state needs an additional 1.5 million housing units affordable to very-low income Californians.

2) *Housing elements and approvals generally*. Every city and county in California is required to develop a general plan that outlines the community's vision of future development through a series of policy statements and goals. General plans are comprised of several elements that address various land use topics. Each community's general plan must include a housing element, which outlines a long-term plan for meeting the community's existing and projected housing needs. The housing element demonstrates how the community plans to accommodate its "fair share" of its region's housing needs. To do so, each community establishes an inventory of sites designated for new housing that is sufficient to accommodate its fair share. State law requires cities and counties to update their housing elements every five or eight years.

   Cities and counties enact zoning ordinances to implement their general plans. Zoning determines the type of housing that can be built. In addition, before building new housing, housing developers must obtain one or more permits from local planning departments and must also obtain approval from local planning commissions, city councils, or county board of supervisors. Some housing projects can be permitted by city or county planning staff ministerially or without further approval from elected officials. Projects reviewed ministerially, or by-right, require only an administrative review designed to ensure they are consistent with existing general plan and zoning rules, as well as meet standards for building quality, health, and safety. Most large housing

projects are not allowed ministerial review. Instead, these projects are vetted through both public hearings and administrative review. Most housing projects that require discretionary review and approval are subject to review under the California Environmental Quality Act (CEQA), while projects permitted ministerially generally are not.

3) *By-right for shelters in the housing element*. SB 2 (Cedillo, Chapter 633, Statues of 2007) required a local government, in its housing element, to accommodate its need for emergency shelters on sites by right, or ministerially and without a conditional use permit, and requires cities and counties to treat transitional and supportive housing projects as a residential use of property. Local governments must treat supportive housing the same as other multifamily residential housing for zoning purposes, and may only apply the same restrictions as multifamily housing in the same zone to supportive housing. Current law is silent as to where these shelters may be located, and as a result, local governments often identify shelters in industrial areas far from services designed to move people experiencing homelessness from the streets and into permanent housing. Additionally, current law does not require a local government to identify zones with sufficient capacity to accommodate emergency shelters. As a result, some emergency shelter zones are not actually capable of accommodating a shelter on any of the identified sites.

   This bill clarifies housing element law with regards to where by-right zones for emergency shelters may be identified. Current law is not clear as to the types of standards that a jurisdiction may apply to a shelter project in an identified by right zone. This bill makes it clear that a local government shall only be subject to those development and management standards that apply to residential or commercial development within the same zone, except that a local government may apply the specified objective standards. Additionally, this bill requires local governments to identify by-right shelters in zones that allow residential uses, including mixed-use. Lastly, this bill requires that an emergency shelter zone must include vacant sites or sites that are adequate for a shelter.

4) *No Net Loss.* As discussed above, housing element law requires local governments to plan to accommodate their share of the regional housing need. Throughout the housing element planning period, as housing gets developed, local governments must ensure that there is still capacity to accommodate their share of the regional housing need on sites that have not yet been developed. This requirement is referred to as "Not Net Loss" law. In housing element law, if the city or county failed to zone for its full share of regional housing in the

prior planning period, then within the first year of the planning period of the new housing element, the local government must rezone adequate sites to accommodate the amount it failed to zone for in the prior planning period. In housing element law, it is clear that this "carryover portion" that makes up for failure to rezone in the prior housing element is part of what HCD considers the city or county's share of the regional housing. No Net Loss law is ambiguous as to whether local governments need to account for the carryover portion when determining remaining capacity to accommodate growth. This bill rectifies this ambiguity by clearly aligning No Net Loss law with housing element law. Specifically, it requires that local governments must account for the carryover portion when calculating both the amount of housing they must plan for and the amount of capacity that must be available at any given time.

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

SUPPORT: (Verified 8/25/22)

California Rural Legal Assistance Foundation (co-source)
Public Interest Law Project (co-source)
Western Center on Law & Poverty (co-source)
National Association of Social Workers, California Chapter

OPPOSITION: (Verified 8/25/22)

City of Thousand Oaks

ARGUMENTS IN SUPPORT: According to the author, "AB 2339 strengthens the requirements for the identification of sites for homeless shelters and ensures cities are properly rezoning for their fair share of housing. Every day, more people are falling into homelessness than we are able to house. Tackling this humanitarian crisis will take all cities doing their part in helping build emergency shelters and removing the barriers that have delayed the production of much needed housing."

ARGUMENTS IN OPPOSITION: The City of Thousand Oaks is opposed because locals should determine what areas are most suitable for emergency shelters in their housing element.

ASSEMBLY FLOOR: 55-16, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein,

McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NOES: Bigelow, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron

NO VOTE RECORDED: Berman, Boerner Horvath, Chen, Kiley, Lackey, Mayes, O'Donnell

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8/26/22 15:47:37

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

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THIRD READING

Bill No: AB 2343
Author: Akilah Weber (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 6/28/22
AYES: Bradford, Kamlager, Skinner, Wiener
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-1, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Jones
NO VOTE RECORDED: Bates

ASSEMBLY FLOOR: 52-19, 5/26/22 - See last page for vote

SUBJECT: Board of State and Community Corrections

SOURCE: North County Equity
Racial Justice Coalition
Racial Justice Coalition of San Diego
San Diego County Board of Supervisors
SEIU Local 221

DIGEST: This bill requires the Board of State and Community Corrections (BSCC) to develop standards for mental health care in local correctional facilities, beginning on July 1, 2023.

Senate Floor Amendments of 8/25/22 specify that safety checks of incarcerated persons be sufficiently detailed to determine the safety and well-being of the person but do not require staff to disturb or wake incarcerated persons during sleeping hours; remove the requirement that random audits of safety checks include no fewer than two safety checks from each prior shift; specify that review of video footage only occur if it is available; remove the requirement that a record

of audits be maintained and that management staff conduct monthly audits of supervisory audits; and remove the requirement that health care and mental health care providers employed by or regularly working in a county jail receive no fewer than 12 hours of continuing education annually that is related to correctional health care and mental health care.

ANALYSIS:

Existing law:

1) Establishes the BSCC. (Pen. Code, § 6024, subds. (a).)

2) Provides that the mission of the BSCC is to provide statewide leadership, coordination, and technical assistance to promote effective state and local efforts and partnerships in California's adult and juvenile criminal justice system, including addressing gang problems. Provides that this mission reflect the principle of aligning fiscal policy and correctional practices, including, but not limited to prevention, intervention, suppression, supervision, and incapacitation, to promote a justice investment strategy that fits each county and is consistent with the integrated statewide goal of improved public safety through cost-effective, promising, and evidence-based strategies for managing criminal justice populations. (Pen. Code, § 6024, subd. (b).)

3) Provides that as of July 1, 2013, the BSCC consists of 13 members, as specified. (Pen. Code, § 6025, subd. (b).)

4) Provides that it is the duty of the BSCC to collect and maintain available information and data about state and community corrections policies, practices, capacities, and needs. (Pen. Code, § 6027, subd. (a).)

5) Requires the BSCC to establish minimum standards for local correctional facilities. Requires the BSCC to review those standards biennially and make any appropriate revisions. (Pen. Code, § 6030, subd. (a).)

6) Requires that the minimum standards include, but not be limited to, health and sanitary conditions, fire and life safety, security, rehabilitation programs, recreation, treatment of persons confined in local correctional facilities, and personnel training. (Pen. Code, § 6030, subd. (b).)

7) Requires the BSCC to seek the advice of the State Department of Public Health, physicians, psychiatrists, local public health officials, and other interested person in establishing minimum standards related to health and sanitary conditions. (Pen. Code, § 6030, subd. (g)(1).)

8) Requires the BSCC to adopt minimum standards for the operation and maintenance of juvenile halls for the confinement of minors. (Welf. & Inst. Code, § 210.)

9) Requires the BSCC to inspect each local detention facility in the state biennially, at a minimum. (Pen. Code, § 6031, subd. (a).)

This bill:

1) Increases the number of members on the BSCC to add a licensed health care provider and a licensed mental health care provider, both to be appointed by the Governor, and subject to confirmation by the Senate Rules Committee. Provides that the 15-member board begin July 1, 2023.

2) Requires the board to develop and adopt regulations setting minimum standards for mental health care at local correctional facilities that meet or exceed the standards for health services in jails established by the National Commission on Correctional Health Care commencing July 1, 2023. Requires the minimum standards to include the following:

   a) Safety checks of incarcerated persons must be sufficiently detailed to determine that the inmate is alive.

   b) Correctional officers must be certified in cardiopulmonary resuscitation (CPR) and be required, when safe and appropriate to do so, to begin CPR on a nonresponsive person without obtaining approval from supervisors or medical staff.

   c) Jail supervisors are required to conduct random audits in a defined housing unit of no fewer than two safety checks from each prior shift. Requires a supervisory audit to include a review of logs and video footage to ensure that safety checks are properly performed. Requires a record of audits performed to be maintained in information management platforms. Requires management staff, at least monthly, conduct an audit of supervisory audits.

   d) In-service training of correctional officers requires no fewer than four hours of training on mental and behavioral health annually. Requires training requirements to be developed BSCC standards of training for corrections.

   e) Health care and mental health care providers employed by, or regularly working within, a county jail be required to receive no fewer than 12 hours of continuing education annually that is relevant to correctional health care and mental health care. Requires continuing education requirements to be

developed in conjunction with applicable licensing authorities for health care and mental health care providers.

f) Mental health screening or evaluation conducted at booking or intake must be conducted by a qualified mental health care professional, if available. Requires mental health screening or evaluation that is conducted by anybody other than a qualified mental health care professional to be reviewed by a qualified mental health care professional as soon as reasonably practicable.

g) Jail staff must review the medical and mental health history and the county electronic health record, if available, of any person booked or transferred into the jail to determine any history of mental health issues.

3) Defines a "qualified mental health care professional" to mean a physician, physician assistant, nurse, nurse practitioner, psychologist licensed by the Board of Psychology, registered psychologist, postdoctoral psychological assistant, postdoctoral psychology trainee, as defined, marriage and family therapist, associate marriage and family therapist, licensed clinical social worker, associate clinical social worker, licensed professional clinical counselor, associate professional clinical counselor, or other person who, by virtue of their credentials, is permitted by law to evaluate and care for patients, and who, by virtue of their credentialing, or in addition to their credentialing, has received instruction, training, or expertise in identifying and interacting with persons in need of mental health services.

4) Includes uncodified legislative findings and declarations.

Background

The BSCC was established in 2012 and is responsible for providing statewide leadership, coordination, and technical assistance to promote effective state and local efforts and partnerships in California's adult and juvenile justice systems. The BSCC has four primary responsibilities: setting standards for and inspecting local detention facilities; setting standards for the selection and training of local correctional staff; administering various grant programs related to recidivism and reduction strategies; and administering the state's construction financing program for local detention facilities. The 2021-2022 Budget provides the BSCC with $617 million ($349 million General Fund) to carry out those responsibilities. (<https://www.ebudget.ca.gov/budget/publication/#/e/2021-22/ExpendituresPosistions/5227)

Current law requires the BSCC to maintain minimum standards for the construction and operation of local detention facilities inspect each local detention facility biennially to assess compliance with BSCC standards, and prepare, distribute, and publish inspection reports. Notably, although the BSCC is required to inspect local detention facilities to determine compliance with the standards and to report noncompliance, the BSCC is not authorized under state law to enforce the standards (e.g., by fining a local detention facility).

The BSCC's standards and inspection program is one of the primary ways that the state exercises oversight of local detention facilities. Growing concerns over conditions inside of the state's local detention facilities, including isolation of mentally ill inmates, violence, suicide, use of force, and lack of transparency have led to the introduction of a number of bills in recent years aimed at increasing transparency and accountability as they relate to county jails. In early 2020, Governor Newsom directed the BSCC to strengthen the state's oversight of county jails, and the BSCC has since developed an enhanced jail inspection process, which began in 2021. (<https://www.bscc.ca.gov/wp-content/uploads/Info-Item-6-Targeted-Inspections-FINAL.pdf)

State Auditor's Report

This bill was introduced in response to a State Auditor report published this year on in-custody deaths of incarcerated individuals under the care and custody of the San Diego County Sheriff's Department. (State Auditor, *San Diego County Sheriff's Department It Has Failed to Adequately Prevent and Respond to the Deaths of Individuals in Its Custody* (February 3, 2022), Report 2021-109 <http://auditor.ca.gov/pdfs/reports/2021-109.pdf [as of Jun. 22, 2022].) Between 2006 and 2020, 185 people died in San Diego County's jails—one of the highest totals among counties in the state. Due to the high number of in-custody deaths, the Joint Legislative Audit Committee requested an audit of the San Diego County Sheriff's Department. The report noted:

> Significant deficiencies in the Sheriff's Department's provision of care to incarcerated individuals likely contributed to the deaths in its jails. For example, studies on health care at correctional facilities have demonstrated that identifying individuals' medical and mental health needs at intake—the initial screening process—is critical to ensuring their safety in custody. Nonetheless, our review of 30 individuals' deaths from 2006 through 2020 found that some of these individuals had serious medical or mental health needs that the Sheriff's Department's health staff did not identify during the intake process.
>
> (*Id*. at p. 1.)

The audit additionally revealed several instances of individuals who requested or required medical and mental health care and did not receive it at all or in a timely manner. (*Id*. at p. 2.) For example, one individual requested mental health services shortly after entering the jail. However, the intake nurse did not identify any significant mental health issues and determined that the individual did not qualify for an immediate appointment. The individual committed suicide two days later.

The audit also found that deputies performed inadequate safety checks to ensure the well-being of incarcerated persons. (*Ibid*.) State law requires hourly checks through direct visual observation, which is the department's most consistent means of monitoring for medical distress and criminal activity. The audit further found that some of deficiencies of the Sheriff's Department are the result of statewide corrections standards that are insufficient for maintaining the safety of incarcerated individuals. (*Id*. at pp. 2-3.) For example, regulations established by the BSCC do not explicitly require that mental health professionals perform the mental health screenings during the intake process and do not describe the actions that constitute an adequate safety check.

The Auditor's report concluded with several key recommendations, including that the BSCC should require mental health evaluations to be performed by mental health professionals at intake, and that it should clarify and improve procedures for safety checks. (*Id*. at p. 56.) This bill requires the BSCC to develop and adopt regulations setting minimum standards for mental health care at local correctional facilities, including mental health screenings by a qualified mental health professional at intake, and sufficiently detailed regulations on safety checks.

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

According to the Senate Appropriations Committee, unknown, potentially reimbursable costs, possibly in the millions of dollars, for counties to provide a higher level of mental health care to inmates in county jail (General Fund). Actual General Fund costs will depend on whether the duties imposed by this bill are considered a reimbursable state mandate by the Commission on State Mandates. The BSCC reported no costs to expand its board membership and develop/adopt regulations that meet or exceed national standards.

SUPPORT: (Verified 8/25/22)

North County Equity (co-source)
Racial Justice Coalition (co-source)
Racial Justice Coalition of San Diego (co-source)
San Diego County Board of Supervisors (co-source)

SEIU Local 221 (co-source)
Alliance San Diego
California Catholic Conference
California Public Defenders Association
California State Association of Psychiatrists
Depression and Bipolar Support Alliance California
Los Angeles County District Attorney's Office

OPPOSITION: (Verified 8/25/22)

California State Sheriffs' Association

ARGUMENT IN SUPPORT: The San Diego County Board of Supervisors, one of this bill's sponsors, writes:

> The BSCC provides statewide leadership, coordination, and technical assistance to county jails and establishes standards for county jails and correctional officers. AB 2343 would require the BSCC to develop and adopt standards of care for incarcerated persons with mental health issues in county jails, including requirements for training of correctional staff, requirements for mental health screening, and requirements for safety checks of at-risk incarcerated persons.
>
> At the direction of the California State Joint Legislative Audit Committee, the Auditor of the State of California ('State Auditor) conducted an audit of the San Diego County Sheriff's Department ('Sheriff's Department') to determine the reasons for the high number of in-custody deaths. The State Auditor issued a report in February 2022 that raised concerns about systemic issues with the Sheriff's Department's policies and practices related to its provision of medical and mental health care and its performance of visual checks to ensure the safety and health of individuals in its custody.
>
> To address the State Auditor's report, the San Diego County Board of Supervisors unanimously approved recommendations to sponsor state legislative action to ensure that the Sheriff's Department implements changes in accordance with the State Auditor's recommendations.

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

> Historically, we have had concerns with growing the size of the BSCC. We feel this board has an appropriate current composition and worry that adding to it, notwithstanding the importance of the delivery of medical and mental

health care services to incarcerated persons, will dilute the operational efficacy of the body.

Further, while the BSCC is the appropriate venue for setting minimum standards for detention facilities, AB 2343 goes too far by installing specific standards and requirements in statute. BSCC board members, practitioners, and other stakeholders participate in a near-constant revision of Title 15 standards for both adult and juvenile incarcerated populations. This process generally results in well-negotiated and achievable standards that are subject to the scrutiny and review of experts and those who will be asked to implement and abide by them. Statutorily setting these standards interferes in this process and will preclude the BSCC and those it oversees from being nimble when changes are necessary.

Finally, several of the changes required by this bill will likely result in costly mandates and the need for more staff but fails to provide for any funding to accomplish what the bill seeks.

ASSEMBLY FLOOR: 52-19, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Cooper, Gray, Mayes, O'Donnell, Ramos, Rodriguez

Prepared by: Stephanie Jordan / PUB. S. /
8/26/22 15:47:38

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

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THIRD READING

Bill No: AB 2344
Author: Friedman (D) and Kalra (D), et al.
Amended: 8/24/22 in Senate
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 6-0, 6/20/22
AYES: Stern, Allen, Eggman, Hertzberg, Hueso, Laird
NO VOTE RECORDED: Jones, Grove, Limón

SENATE TRANSPORTATION COMMITTEE: 15-0, 6/28/22
AYES: Newman, Bates, Allen, Archuleta, Becker, Cortese, Dodd, Hertzberg, Limón, McGuire, Min, Rubio, Skinner, Wieckowski, Wilk
NO VOTE RECORDED: Dahle, Melendez

SENATE APPROPRIATIONS COMMITTEE: 6-0, 8/11/22
AYES: Portantino, Bates, Bradford, Laird, McGuire, Wieckowski
NO VOTE RECORDED: Jones

ASSEMBLY FLOOR: 58-7, 5/25/22 - See last page for vote

SUBJECT: Wildlife connectivity: transportation projects

SOURCE: Center for Biological Diversity
Wildlands Network

DIGEST: This bill requires that the State Department of Transportation (Caltrans), in consultation with the California Department of Fish and Wildlife (CDFW), develop and prioritize an inventory of projects to address wildlife connectivity needs, and establishes the Transportation Wildlife Connectivity Remediation Program to improve wildlife connectivity across transportation systems, as provided, among other things.

Senate Floor Amendments of 8/24/22 rearrange elements of, and expand upon or provide more explicit requirements to the proposed collaboration and coordination between Caltrans and CDFW for wildlife connectivity projects; add additional

evaluation criteria; provide for the use of compensatory mitigation credits; remove the wildlife connectivity action plan; add the Transportation Wildlife Connectivity Remediation Program; require Caltrans to update the Highway Design Manual for wildlife passage features; consolidate legislative reporting into one report; and delay certain bill deadlines, among other things.

ANALYSIS:

Existing law:

1) Provides for the establishment of the Department of Fish and Wildlife (CDFW), and vests CDFW with jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species.

2) Requires CDFW to investigate, study, and identify those areas in the state that are most essential as wildlife corridors and habitat linkages, as well as the impacts to those wildlife corridors from climate change, as provided.

3) Authorizes CDFW to approve compensatory mitigation credits for wildlife connectivity actions taken under specified programs.

4) Provides that the State Department of Transportation (Caltrans) has full possession and control of the state highway system, and requires Caltrans to make improvements to and maintain the state highway system.

This bill requires that Caltrans, in consultation with CDFW, develop and prioritize an inventory of projects to address wildlife connectivity needs, and establishes the Transportation Wildlife Connectivity Remediation Program to improve wildlife connectivity across transportation systems, as provided, among other things. Specifically, this bill:

1) Requires Caltrans, in consultation with CDFW and others, to establish an inventory of connectivity needs on the state highway system where the implementation of wildlife passage features could reduce wildlife-vehicle collisions or enhance wildlife connectivity.
   a) Provides factors to consider in developing the inventory, such as adding climate-resiliency, among others.
   b) Requires Caltrans no later than July 1, 2024, to develop and publish online the inventory and a list of funded transportation projects with wildlife passages features that address wildlife connectivity needs. Requires Caltrans to update the project list and inventory at least biennially.

2) Requires Caltrans for any project on the state highway systems located in a connectivity area beginning the project initiation phase on or after July 1, 2025 to perform an assessment, in consultation with CDFW, before commencing project design and through the development and implementation of the project to identify potential wildlife connectivity barriers and any needs for improved permeability subject to certain exclusions, as provided.
   a) Requires Caltrans to consider factors affecting wildlife connectivity that provide scalable solutions for all defined species needs, as provided.
   b) Authorizes the assessment to incorporate relevant guidelines and standards, as specified.
   c) Requires Caltrans to submit the assessment to CDFW. Requires the implementing agency to remediate barriers to wildlife connectivity in conjunction with the project, as provided.
   d) Requires Caltrans to publish online a list of all transportation projects that require remediation and information regarding whether wildlife passage features are include in those projects or mitigation credits are applied, as specified. Requires Caltrans to update the project list at least biennially.

3) Authorizes Caltrans to use or receive compensatory mitigation credits, as provided.

4) Establishes the Transportation Wildlife Connectivity Remediation Program (program) at Caltrans, in consultation with CDFW, for the purposes of improving wildlife connectivity across transportation systems, as provided.
   a) Requires Caltrans, upon appropriation of funds, to develop a program of projects that support the remediation and improvement of wildlife connectivity, as specified.
   b) Requires Caltrans, in concurrence with CDFW, to develop guidelines for the implementation of the program, as provided. Requires program guidelines to establish selection criteria for funding wildlife connectivity improvements, as provided.

5) Requires Caltrans on or before July 1, 2025 to update appropriate design guidance, including the Highway Design Manual to incorporate design concepts for wildlife passage features, as provided.

6) Requires Caltrans on or before July 1, 2028 to submit a report to the Legislature regarding the implementation of this bill, as specified, including recommendations, and a list of significant accomplishments or obstacles to meeting wildlife connectivity goals, as provided. Sunsets the reporting requirement on July 1, 2032.

7) Establishes state policy and state legislative intent related to wildlife connectivity. Makes extensive relevant legislative findings and declarations, and defines various relevant terms.

Comments

A comment on letters. Letters in support and opposition to an earlier version of this bill are included as the Senate Floor amendments revise and build upon the content of the earlier version.

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

According to the Senate Appropriations Committee for a previous bill version:

- Caltrans estimates ongoing costs in the low hundreds of millions of dollars annually (various funds) to develop the action plan and project list, and to enable Caltrans to implement at least 10 projects annually and fulfill the other requirements of this bill. Actual costs would depend, among other factors, on the size and scope of individual projects and on the needs of particular wildlife.

- CDFW estimates ongoing costs of $2.2 million in 2022-23, $5.5 million in 2023-24, and $4.3 million annually thereafter (General Fund) for permitting and wildlife staff in each region to participate with Caltrans on connectivity project proposals, assessments, and research, as well as headquarters and management staff to oversee and coordinate these activities at the state level.

SUPPORT: (Verified 8/11/22)

Center for Biological Diversity (co-source)
Wildlands Network (co-source)
Abundant Housing LA
Amal Mutsun Land Trust
Animal Legal Defense Fund
Animazonia Wildlife Foundation
Arroyos & Foothills Conservancy
Audubon California
Born Free USA
Brentwood Alliance of Canyons & Hillsides
California Academy of Sciences
California Bowmen Hunters/State Archery Association
California Chaparral Institute
California Council for Wildlife Rehabilitators

California Deer Association
California Environmental Voters
California Houndsmen for Conservation
California Institute for Biodiversity
California Native Plant Society
California North Coast Chapter of the Wildlife Society
California Rifle & Pistol Association
California State Parks Foundation
California Waterfowl Association
California Wilderness Coalition
California Wildlife Center
California Wildlife Foundation
California YIMBY
Cal-Ore Wetland and Waterfowl Association
Channel Islands Restoration
Chileno Valley Newt Brigade
Citizens for Los Angeles Wildlife
City of Thousand Oaks
Coastal Ranches Conservancy
Defenders of Wildlife
Eastwood Ranch Foundation
Ecologistics, Inc.
Endangered Habitats League
Environmental Protection Information Center
Felidae Conservation Fund
Forest Unlimited
Friends of Ballona Wetlands
Friends of Griffith Park
Friends of Harbors, Beaches and Parks
Friends of Plumas Wilderness
Friends of the Inyo
Green Foothills
Greenbelt Alliance
Hills for Everyone
Hillside Federation
Housing Action Coalition
In Defense of Animals
Klamath Forest Alliance
Las Virgenes Homeowners Federation, Inc.
Laurel Canyon Association

Laurel Canyon Land Trust
LISC San Diego
Live Oak Associates, Inc.
Living Systems/Taking Action for Living Systems
Los Angeles Waterkeeper
Los Padres ForestWatch
Midpeninsula Regional Open Space District
Mojave Desert Land Trust
Mount Shasta Bioregional Ecology Center
Mountain Lion Foundation
National Wildlife Federation
Natural Resources Defense Council
New Way Homes
North Bay Bear Collaborative
Oakland Zoo (Conservation Society of California)
Ojai Valley Green Coalition
Pacific Forest Trust
Patagonia, Inc.
Peninsula Open Space Trust
People for the Ethical Treatment of Animals
Planning and Conservation League
Poison Free Agoura
Poison Free Malibu
Predator Defense
Preserve Wild Santee
Project Coyote
Project San Benito County
Raptors Are the Solution
River Otter Ecology Project
San Bernardino Valley Audubon Society
San Diego County Wildlife Federation
San Diego Humane Society
Santa Clara Valley Audubon Society
Santa Clara Valley Habitat Agency
Santa Clara Valley Open Space Authority
Santa Susana Mountain Park Association
Save Open Space & Agricultural Resources
Sequoia Riverlands Trust
Shasta Trinity Wildlife Group
Sierra Business Council

Sierra Club California
SoCal 350 Climate Action
Social Compassion in Legislation
Sonoma County Ag + Open Space
Sonoma Land Trust
Temescal Canyon Association
The Big Wild
The Cougar Fund
The Humane Society of the United States
The Pew Charitable Trusts
The Wildlands Conservancy
True Wild LLC
Trust for Public Land
Tule River Indian Tribe of California
UnchainedTV
Urban Wildlife Research Project
Ventana Wilderness Alliance
Ventura Citizens for Hillside Preservation
Ventura Land Trust
Volcan Mountain Foundation
Voters for Animal Rights
Western Sonoma County Rural Alliance
Western Watersheds Project
Wild Sheep Foundation, California Chapter
WildFutures
Wildlife Emergency Services
Women United for Animal Welfare

OPPOSITION: (Verified 8/25/22)

Riverside County Transportation Commission

ARGUMENTS IN SUPPORT: According to the author, "The lack of wildlife connectivity on California's highway system poses a major threat, not only to drivers and passengers, but to the imperiled species that contribute to the state's rich biodiversity. In 2018, reported wildlife-vehicle collisions resulted in 314 injuries and an estimated five deaths. Many more crashes with wildlife are believed to go unreported. Wildlife-vehicle collisions also take an economic toll. The reported collisions in 2018 alone resulted in more than $230 million in economic and social costs. Wildlife crossings have been shown to reduce wildlife vehicle collisions by up to 98% and facilitate wildlife movement. AB 2344 requires

Caltrans and the California Department of Fish & Wildlife to identify areas with high rates of wildlife-vehicle collisions and implement priority projects that improve connectivity with passage features like overpasses, underpasses and directional fencing. These projects will make roads and highways much safer while giving mountain lions, desert tortoises, California tiger salamanders and other iconic species of California a chance at survival."

ARGUMENTS IN OPPOSITION: The Riverside County Transportation Commission, also writing in opposition, expresses concern about ensuring the development of the wildlife connectivity action plan does not result in duplicative assessment efforts where planning efforts protective of wildlife – for example, natural community conservation plans, have already been undertaken.

The opponent requested amendments, and it is unknown if Senate Floor amendments addressed their concerns.

ASSEMBLY FLOOR: 58-7, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Choi, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Cunningham, Megan Dahle, Gallagher, Kiley, Seyarto, Smith
NO VOTE RECORDED: Berman, Chen, Davies, Flora, Fong, Gray, Lackey, Mayes, Nguyen, O'Donnell, Patterson, Valladares, Voepel

Prepared by: Katharine Moore / N.R. & W. / (916) 651-4116
8/26/22 15:47:38

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

SENATE RULES COMMITTEE AB 2352
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2352
Author: Nazarian (D), et al.
Amended: 8/24/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 9-0, 6/15/22
AYES: Pan, Melendez, Eggman, Gonzalez, Grove, Hurtado, Leyva, Limón, Wiener
NO VOTE RECORDED: Roth, Rubio

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 70-1, 5/23/22 - See last page for vote

SUBJECT: Prescription drug coverage

SOURCE: California Chronic Care Coalition

DIGEST: This bill requires certain health plans and insurers to furnish prescription drug information in specified electronic formats, as prescribed, upon request of an enrollee/insured or their prescribing provider.

Senate Floor Amendments of 8/24/22 delay implementation to contracts issued, amended, renewed, or delivered after July 1, 2023, and, clarify that cost-sharing information is provided based on any variance with the enrollee's or insured's preferred dispensing pharmacy

ANALYSIS:

Existing law:

1) Establishes the Department of Managed Health Care (DMHC) to regulate health plans under the Knox-Keene Health Care Service Plan Act of 1975

(Knox-Keene Act) and the California Department of Insurance (CDI) to regulate health insurance. [HSC §1340, et seq., and INS §106, et seq.]

2) Establishes as California's essential health benefits (EHBs) benchmark the Kaiser Small Group Health Maintenance Organization, existing California mandates, and ten Affordable Care Act (ACA) mandated benefits, including prescription drugs. Requires nongrandfathered individual and small group plan contracts and insurance policies to cover EHBs. [HSC §1367.005 and INS §10112.27]

3) Requires every health plan that provides prescription drug benefits and maintains one or more drug formularies to provide to members of the public, upon request, a copy of the most current list of prescription drugs on the formulary of the plan by major therapeutic category, with an indication of whether any drugs on the list are preferred over other listed drugs. Requires, if the plan maintains more than one formulary, to notify the requester that a choice of formulary lists is available. [HSC§1367.20]

4) Requires a health plan, in addition to 3) above, and a health insurer that provides prescription drug benefits and maintains one or more drug formularies to post the formulary or formularies for each product offered on the plan's website in a manner that is accessible and searchable by potential enrollees, enrollees/insureds, providers, the general public, DMHC, CDI and federal agencies as required by federal law or regulations; update the formularies on a monthly basis; and, use a DMHC and CDI template to display the formulary or formularies for each product offered by the plan. [HSC §1367.205 and INS §10123.192]

5) Requires a pharmacy to inform a customer at the point of sale for a covered prescription drug whether the retail price is lower than the applicable cost-sharing amount for the prescription drug, unless the pharmacy automatically charges the customer the lower price. [BPC § 4079]

6) Establishes the Confidentiality of Medical Information Act (CMIA), which prohibits a health care provider, health care service plan, or contractor from disclosing medical information regarding a patient without first obtaining authorization. [CIV §56, et. seq.]

7) Establishes, under federal law, the Health Insurance Portability and Accountability Act of 1996 (HIPAA), which among various provisions, mandates industry-wide standards for health care information on electronic billing and other processes; and, requires the protection and confidential

handling of protected health information. [42 U.S.C. §300gg, 29 U.S.C. §1181, et seq., and 42 U.S.C. §1320d, et seq.]

This bill:

1) Requires a health plan contracts or health insurance policies issued, amended, delivered, or renewed on or after July 1, 2023, that provides prescription drug benefits and maintains one or more drug formularies to do all of the following:

   a) Upon request of an enrollee/insured or an enrollee's/insured's prescribing provider, furnish all of the following information regarding a prescription drug to the enrollee/insured or the enrollee's/insured's health care provider:

      i) The enrollee's/insured's eligibility for the prescription drug;

      ii) The most current formulary or formularies;

      iii) Cost-sharing information for the prescription drug and other formulary alternatives, consistent with cost-sharing requirements as set forth in the contract and accurate at the time it is provided, including any variance in cost sharing based on the patient's preferred dispensing pharmacy, whether retail or mail order, or the health care provider; and,

      iv) Applicable utilization management requirements for the prescription drug and other formulary alternatives.

   b) Respond in real time to a request made through a "Standard Application Programming Interface (API)," as defined;

   c) Allow the use of an interoperability element to provide the required information;

   d) Ensure that the information provided is current no later than one business day after a change is made and is provided in real time; and,

   e) Provide the information if the request is made using the drug's unique billing code and National Drug Code.

2) Prohibits a health plan or insurer from doing any of the following:

   a) Denying or delaying a response to a request for the purpose of blocking the release of the information;

b) Restricting, prohibiting, or otherwise hindering a prescribing provider from communicating or sharing information to an enrollee, including additional information on any lower cost or clinically appropriate alternative drugs, whether or not they are covered under the enrollee's health plan contract or insured's health insurance policy, and, information about the cash price of the drug;

c) Except as required by law, interfering with, preventing, or materially discouraging access, exchange, or use of the information in 1) above, which includes charging fees for access to the information, not responding to a request at the time made consistent with this bill, or instituting enrollee/insured consent requirements;

d) Penalizing a prescribing provider for disclosing the information, which includes an action intended to punish a provider for disclosing the information set forth in this bill or intended to discourage a provider from disclosing this information in the future; and,

e) Penalizing a prescribing provider for prescribing, administering, or ordering a lower cost or clinically appropriate alternative drug, which includes an action intended to punish a provider who has prescribed, administered, or ordered a lower cost or clinically appropriate alternative drug, or intended to discourage a provider from prescribing, administering, or ordering a lower cost or clinically appropriate alternative drug in the future.

3) Establishes the following definitions:

a) "Cost-sharing information" is the actual out-of-pocket amount an enrollee or insured would be required to pay a dispensing pharmacy or prescribing provider for a prescription drug under the terms of the enrollee's contract or insured's policy;

b) "Interoperability element" means integrated technologies or services necessary to provide a response to an enrollee/insured or an enrollee's/insured's prescribing provider;

c) "Prescribing provider" is a health care provider authorized to write a prescription to treat a medical condition including prescriptions to treat mental health and substance use disorders, for a health plan enrollee or insured; and,

d) "Standard API" means an application interface that is standardized for vendors to conform to in order to access the information, pursuant to federal regualtions.

4) Prohibits this bill from being construed to authorize further disclosure inconsistent with HIPAA and CMIA.

Comments

According to the author, the reason for this bill is quite simple. Information about prescription drugs will help consumers make better-informed choices about their costs and will certainly allow pharmacy benefit managers (PBM) to have a better handle on how they negotiate prices, which hopefully should increase options for consumers and reduce the cost of prescription drugs.

21st Century Cures Act and related rules. The 21st Century Cures Act (Cures Act) was signed into law on December 13, 2016, and was designed to help accelerate medical product development and bring new innovations and advances to patients who need them faster and more efficiently. While there were a number of provisions in this law, the sections on payer capability related to interoperability, provider directories, and patient access are relevant to this bill. On March 9, 2020, final rules were published implementing the Cures Act. The Interoperability and Patient Access Final Rule is "focused on driving interoperability and patient access to health information by liberating patient data" using the regulatory authority of the Centers for Medicare and Medicaid Services (CMS) over Medicare Advantage, Medicaid managed care plans, and Exchange plans under the ACA. The requirements of this bill apply more broadly than the federal rule to also include health plan and health insurance products that are not subject to these CMS requirements. This rule required CMS-regulated payers to implement and maintain a secure, standards-based API that allows patients to easily access their claims and encounter information, including cost, as well as a defined subset of their clinical information through third-party applications of their choice. Drug formulary data is included in the patient access requirements. The rule also requires CMS-regulated payers to make provider directory information publicly available via a standards-based API, and implement a process for a payer-to-payer clinical data exchange to allow patients to take their information with them as they move from payer to payer over time to help create a cumulative health record.

API. According to IBM's website, APIs simplify software development and innovation by enabling applications to exchange data and functionality easily and securely. An API is a set of defined rules that explain how computers or applications communicate with one another. APIs sit between an application and

the web server, acting as an intermediary layer that processes data transfer between the systems. An API enables companies to open up their applications' data and functionality to external third-party developers and business partners to allow services and products to communicate with each other and leverage each other's data and functionality through a documented interface. Pursuant to federal regulations described in 2) directly above the API standards and associated implementation specifications as adopted by the Secretary of the federal Department of Health and Human Services under §170.215 are as follows:

1) Standard. HL7® Fast Healthcare Interoperability Resources (FHIR ®) Release 4.0.1. Implementation specification. HL7 FHIR® US Core Implementation Guide STU 3.1.1.

2) Implementation specification. HL7 SMART Application Launch Framework. Implementation Guide Release 1.0.0, including mandatory support for the "SMART Core Capabilities."

3) Implementation specification. FHIR Bulk Data Access (Flat FHIR) (v1.0.0: STU 1), including mandatory support for the "group-export" "OperationDefinition."

4) Standard. OpenID Connect Core 1.0, incorporating errata set 1.

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

According to the Senate Appropriations Committee:

- DMHC estimates the total costs for state resources to be approximately $526,000 in 2022-23, $418,000 in 2023-24, and $319,000 annually thereafter (Managed Care Fund).

- CDI estimates no fiscal impact.

SUPPORT: (Verified 8/11/22)

California Chronic Care Coalition (source)
Alliance for Patient Access
American Diabetes Association
Arthritis Foundation
Axis Advocacy
California Academy of Family Physicians
California Chapter of the American College of Cardiology
California Health Collaborative

California Life Sciences
California Pharmacists Association
California Retired Teachers Association
California Rheumatology Alliance
Chronic Care Policy Alliance
City of Hope National Medical Center
CoverMyMeds
Crohn's & Colitis Foundation
Epilepsy Foundation Los Angeles
International Foundation for Autoimmune & Autoinflammatory Arthritis
Looms for Lupus
McKesson Corporation
National Multiple Sclerosis Society
Neuropathy Action Foundation
Support Fibromyalgia Network
Ten Acres Pharmacy
Zocdoc

OPPOSITION: (Verified 8/11/22)

America's Health Insurance Plans
Association of California Life and Health Insurance Companies
California Association of Health Plans
Department of Finance

ARGUMENTS IN SUPPORT: This bill's sponsor, the California Chronic Care Coalition writes this bill will make prescription drug cost information available at the point-of-care, preventing delays in care and medication non-adherence for the patient while reducing administrative burden on providers. This bill will improve access to quality, affordable health care for people with chronic conditions and diseases. Patients make decisions about their healthcare based on what they can afford. Yet oftentimes, this information is not available until after they reach the pharmacy counter, where they may realize the treatment is unaffordable and may abandon the medication altogether. Delays in care not only worsen the patient's state of health, but also lead to increased utilization of more costly healthcare services thereafter. This is a system that does not work for patients or healthcare providers, who are then burdened with added administrative responsibilities. At a time when families are struggling financially due to the impact of the COVID-19 pandemic, it is critical to adopt practical changes that improve affordability by freeing up existing drug cost data for patients while reducing strain on pharmacists and physicians. This bill moves prescription drug cost and coverage information

upstream to physicians' offices into workflow at the time of prescribing. Physicians are then able to have meaningful conversations with their patients about affording their treatment plan or other appropriate alternatives. This bill enables decision-making to occur where it should, between a patient and their physician. Patients would be central, active stakeholders in their own health and would be more likely to stick with their treatment plan. This bill is both critical and timely, it will ameliorate time-consuming and frustrating processes that weigh on patients and providers, and improve access to quality care for people with chronic disease.

ARGUMENTS IN OPPOSITION: The California Association of Health Plans, the Association of California Life and Health Insurance Companies, and America's Health Insurance Plans write that they are not opposed to the idea of providing useful information to consumers, especially as it relates to assisting them in making important decisions about which prescription drugs would be the most efficacious and cost effective. Consumers should be empowered with the information they need to make smart decisions about their health care. Many of their members currently provide much of the information required under this bill to providers in their network. In addition to technical workability issues that need to be ironed out, this bill currently suffers from a lack any shared responsibility. There is no requirement for providers to actually access or go over the specified information with their patients at the initial point of contact. Health plans and insurers would thus be required to expend the effort of making the information available without any corresponding requirement for providers to utilize or share the material. If it is not mandatory for providers to use these costly information systems, then the purpose of this bill is unclear at best. These opponents also have questions about whether out-of-network providers should have access to the same information and resources as those providers that agree to participate in plan networks. Given the importance of keeping health care affordable, it is more important than ever to ensure that we are putting our health care premium dollars toward programs that will best serve our enrollees and insureds. If the Legislature determines that accessing this information during a patient's visit is critical to the patient's experience, then providers should be required to utilize the system and include the information in their patient consult.

ASSEMBLY FLOOR: 70-1, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low,

Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NOES: Bigelow

NO VOTE RECORDED: Berman, Mia Bonta, Gallagher, O'Donnell, Blanca Rubio, Seyarto, Smith

Prepared by: Teri Boughton / HEALTH / (916) 651-4111
8/26/22 15:47:39

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

SENATE RULES COMMITTEE AB 2369
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2369
Author: Salas (D), et al.
Amended: 8/17/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 10-1, 6/21/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Laird, McGuire, Stern, Wiener
NOES: Jones

ASSEMBLY FLOOR: 73-0, 5/23/22 - See last page for vote

SUBJECT: Domestic Violence Prevention Act: attorney's fees and costs

SOURCE: Family Violence Appellate Project

DIGEST: This bill modifies the fee-shifting statute under the Domestic Violence Prevention Act (DVPA) to require a court to award attorney fees and costs to a prevailing protected party and permit a court to award attorney fees and costs to a prevailing party who was sought to be restrained if the court finds the petition was brought in bad faith.

Senate Floor Amendments of 8/17/22 add a co-author to the bill and clarify that a court award of attorney fees and costs may be made after a request from a party, rather than as a matter of course.

ANALYSIS:

Existing law:

1) Establishes the DVPA (Fam. Code, §§ 6200 et seq.) which sets forth procedural and substantive requirements for the issuance of a protective order to, among other things, enjoin specific acts of abuse or prohibit the abuser from coming within a specified distance of the abused person. (Fam. Code, §§ 6218, 6300 et seq.)

2) Permits a court to issue a short-term, ex parte domestic violence protective order enjoining a party from, among other things, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, credibly impersonating, falsely personating, harassing, telephoning, destroying personal property, contacting, coming within a specified distance of, or disturbing the peace of the other party, and, in the discretion of the court, on a showing of good cause, of other named family or household members. (Fam. Code§§ 6320 et seq.)

3) Permits a court, after notice and a hearing, to issue any domestic violence restraining order that could be issued ex parte. The order can last up to five years, at which point it can be renewed for successive five-year terms or permanently. (Fam. Code, § 6340.)

4) Permits a court, after a noticed hearing pursuant to 3), to issue an award for the payment of attorney fees and costs to the prevailing party. (Fam. Code, § 6344(a).)

5) Provides that, where the petitioner is the prevailing party and cannot afford to pay for attorney fees and costs, the court shall, if appropriate based on the parties' abilities to pay, order that the respondent pay the petitioner's attorney fees and costs for commencing and maintaining the proceeding. This determination shall be based on:

   a) The respective incomes and needs of the parties; and

   b) Any factors affecting the parties' respective abilities to pay. (Fam. Code, § 6344(b).)

6) Requires, if a court orders a party to pay attorney fees or costs under the Family Code, the court shall first determine that the party is or is reasonably likely to have the ability to pay. (Fam. Code, § 270.)

This bill:

1) Repeals the existing attorney fee statute set forth in Family Code Section 6344.

2) Adds a new Family Code Section 6344, which provides:

   a) After notice and a hearing, a court, upon request, shall issue an order for the payment of attorney fees and costs for the prevailing petitioner.

   b) After a notice and hearing, the court, upon request, may issue an order for the payment of attorney fees and costs for the prevailing respondent only if

the respondent establishes by a preponderance of the evidence that the petition or request is frivolous or solely intended to abuse, intimidate, or cause unnecessary delay.

3) Provides that a court cannot issue an order for attorney fees and costs under 2)a) or b) unless it first determines that the party ordered to pay has, or is reasonably likely to have, the ability to pay.

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

SUPPORT: (Verified 8/18/22)

Family Violence Appellate Project (source)
Advocates for Child Empowerment and Safety
California Partnership to End Domestic Violence
Coalition of California Welfare Rights Organizations
Community Overcoming Relationship Abuse
Desert Sanctuary, Inc.
Interface Children & Family Services
Jewish Family Service of LA
Legislative Coalition to Prevent Child Abuse
Public Counsel
Rainbow Services

OPPOSITION: (Verified 8/1/22)

None received

ARGUMENTS IN SUPPORT: According to this bill's sponsor, the Family Violence Appellate Project:

> AB 2369 would help to promote these legislative policies that are not currently being realized; and would reduce the chilling effect under the current law, which has led survivors [of domestic violence] having to pay the other side's fees, even if the court finds abuse has occurred, just because the survivor could not overcome some evidentiary or procedural barriers to fully present their case.
>
> As an example of how the current law could play out against survivors, say a survivor is of moderate income and can afford to pay for their own attorney—not all that common, but it happens—or, perhaps more commonly, say a survivor is of low or no income and they somehow are able to scrounge up enough to pay for an attorney. If they win and get a restraining order, under

Family Code section 6344 as currently written…the court could still refuse to give them attorney's fees simply because the statute gives them that discretion, for almost any reason. And, in fact…some courts interpret to mean the court should always consider the survivor's needs and ability to pay, and will deny them attorney's fees on that basis, even if they win.

With the current law, then, the court could say, for instance, that the survivor could afford to pay for their attorney on their own, because they had in fact already retained the attorney. In these situations, survivors essentially mist fund their own abuse. If passed, AB 2369 would change the outcome. In this kind of scenario, AB 2369 would require the court to order the respondent to pay for the survivor's attorney's fees, after taking into consideration the respondent's ability to pay.

ASSEMBLY FLOOR: 73-0, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Mia Bonta, O'Donnell, Blanca Rubio, Seyarto

Prepared by: Allison Meredith / JUD. / (916) 651-4113
8/19/22 13:05:25

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

SENATE RULES COMMITTEE AB 2382
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2382
Author: Lee (D), et al.
Amended: 8/22/22 in Senate
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 10-3, 6/28/22
AYES: Dodd, Allen, Archuleta, Becker, Bradford, Hueso, Kamlager, Portantino, Rubio, Wilk
NOES: Nielsen, Jones, Melendez
NO VOTE RECORDED: Borgeas, Glazer

SENATE APPROPRIATIONS COMMITTEE: 6-1, 8/11/22
AYES: Portantino, Bates, Bradford, Laird, McGuire, Wieckowski
NOES: Jones

ASSEMBLY FLOOR: 72-0, 5/23/22 - See last page for vote

SUBJECT: Light pollution control

SOURCE: Santa Clara Audubon Society

DIGEST: Requires state agencies, with certain exceptions, to ensure that outdoor lighting fixtures installed or replaced on or after January 1, 2023, on a structure or land that is owned, leased, or managed by the state agency is shielded, as defined, and meets additional minimal illuminance criteria, as specified.

Senate Floor Amendments of 8/22/22 add additional definitions for "correlated color temperature" and "light trespass," as specified; clarify the definition of "shielded;" expand exceptions to the shielded requirement; and, add legislative findings and declarations, as specified.

ANALYSIS:

Existing law:

1) Establishes the California Building Standards Commission, within the Department of General Services (DGS), and tasks it with approval and adoption of building standards and codification of those standards into the California Building Standards Code.

2) Requires the State Energy Resources Conservation and Development Commission to adopt, among other regulations, lighting and other building design and construction standards that increase efficiency in the use of energy for new residential and nonresidential buildings to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy, including energy associated with the use of water, and to manage energy loads to help maintain electrical grid reliability.

3) Defines "state agency" to include every state office, officer, department, division, bureau, board, and commission. State agency does not include the California State University unless explicitly provided for.

This bill:

1) Requires state agencies to ensure that an outdoor lighting fixture that is installed or replaced on or after January 1, 2023, on a structure or land that is owned, leased, or managed by the state agency is shielded and meets all of the following criteria:

    a) Uses a lamp with a correlated color temperature that does not exceed 2700 Kelvin.
    b) Uses the minimal illuminance required for the intended purpose of the outdoor lighting fixture, with consideration to recognized building and safety standards, including, but not limited to, recommended practices adopted by the Illuminating Engineering Society.
    c) Is either dimmable to no more than 50% of its maximum possible brightness, is extinguishable by an automatic or manual shutoff device, or is motion-activated with a duration fewer than 15 minutes, as specified.

2) Makes the following circumstances exempt from the above requirements:

    a) A federal law or regulation that preempts state law.

b) A local municipal or county ordinance that more stringently control light trespass or glare or conserve the natural night sky.
c) The outdoor lighting fixtures are advertisement signs or other fixtures on interstate highways or federal primary highways.

3) Exempts the following situations from the bill for the purposes of a compelling safety interest or if an existing legal requirement requires such lighting:

a) Navigational lighting for aircraft safety.
b) Outdoor lighting needed for the safe navigation of watercraft, including, but not limited to, lighthouses and outdoor lighting in marinas.
c) Outdoor lighting fixtures necessary for worker health and safety or public health and safety, as specified.
d) Lighting that is used by law enforcement officers, firefighters, medical personnel, or correctional personnel, as specified.
e) Lighting intended for tunnels and roadway underpasses.
f) Outdoor lighting used for programs, projects, or improvements of a state agency relating to construction, reconstruction, improvement, or maintenance of a street, highway, or state building, structure, or facility.
g) Outdoor lighting on historic sites or structures, to the extent necessary to preserve the historic appearance.
h) Lighting sources of less than 1,000 lumens, including, but not limited to, seasonal and decorative lighting.
i) Other circumstances where a significant interest exists to protect safety or state property that cannot be feasibly addressed by another method, including, but not limited to, lighting needed to discourage vandalism of state agency buildings, structures, and facilities.

4) Requires a state agency, if an exemption applies, to make reasonable efforts to install fixtures and employ light management practices that conserve energy, minimize light trespass, and preserve the dark sky while still fully meeting the purposes and requirements of the light fixtures.

5) Defines “correlated color temperature” to mean the temperature, measured in Kelvin, of a radiating black body that presents the same apparent color to the human eye as the light source.

6) Defines “light trespass” to mean light emitted by an outdoor lighting fixture that shines beyond the boundary of the property on which the fixture is located.

7) Defines "outdoor lighting fixture" to mean an outdoor artificial illuminating device or luminaire, whether permanent or portable, including, but not limited to, artificial illuminating devices installed on a building or structure and used for illumination or advertisement, including, but not limited to, searchlights, spotlights, and floodlights, used for architectural lighting, parking lot lighting, landscape lighting, billboards, or street lighting. "Outdoor lighting fixture" does not include artificial illuminating devices that are worn or held in the hand, including flashlights, lanterns, and headlamps.

8) Defines "shielded" to mean all of the light rays emitted by an outdoor lighting fixture in its installed position, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where the light is emitted and effectively obscures visibility of the lamp.

9) Includes legislative findings and declarations related to lighting fixtures and light pollution, as specified.

Comments

Purpose of the Bill. According to the author's office, "increased light pollution throughout California and globally is disrupting the circadian rhythms and migratory patterns of animals, which is harming our ecosystems. According to the National Audubon Society, 80% of birds that migrate do so at night using the dark skies to help them navigate to and from their breeding grounds. In addition to disrupting circadian rhythms, excessive artificial light at night (ALAN) can also disorient birds, which can result in fatal collisions. To address this issue, AB 2382 will require outdoor lighting fixtures on state buildings and structures to have an external shield to direct light to where it is needed or be equipped with a shutoff device. This sensible reform promotes safety for migratory birds, ecosystems, and people."

Light Pollution. Light pollution, also known as ALAN, is caused by increasingly large urban areas and the excessive and inefficient use of lights. Light pollution is characterized by sky glow (brighter sky in urban areas), light trespass (shining of lights in unneeded or unwanted areas), and glare (brightness resulting in visual discomfort).

Light pollution can directly impact human health by interfering with natural circadian rhythms caused by a decrease in the amount of melatonin produced in the body. Sleep disorders, depression, cancer, and other adverse health conditions have been linked to circadian disruption. Studies have demonstrated that light

pollution can also alter the behavior of wildlife, often resulting in the death or decline of species such as turtles, birds, fish, reptiles, and other wildlife.

Other States. Nineteen states, the District of Columbia, and Puerto Rico have enacted laws to reduce light pollution. "Dark skies" laws typically require outdoor lighting fixtures to be shielded so that light is emitted downwards only, to use low-glare or low-wattage lightbulbs, or to be restricted during certain hours.

California Green Building Standards Code. In 2007, the Building Standards Commission developed green building standards for non-residential structures and any other buildings or structures that are not under the jurisdiction of another state agency. The California Green Building Standards Code (CALGreen) currently imposes specific light pollution reduction standards for non-residential buildings. Outdoor lighting systems must be designed and installed to prevent light escaping in unwanted or unnecessary directions from an outdoor light fixture. CALGreen specifies that if a local ordinance is more stringent than the CALGreen requirements, the building owner must comply with the local ordinance. CalGreen currently exempts a variety of light fixtures, including but limited to those used for aviation; landscaping; temporary use outdoors; sports and athletic fields, and children's playgrounds; tunnels, bridges, stairs, and ramps; and lighting for industrial sites. CALGreen also exempts emergency lighting; building façade meeting specified requirements; and some custom lighting features.

This bill requires state agencies to ensure that outdoor lighting fixtures installed or replaced on or after January 1, 2023, on a structure or land that is owned, leased, or managed by the state agency is shielded, as defined, and meets additional minimal illuminance criteria. The bill includes a number of exemptions from the requirement including when federal law or regulation preempts state law, a local ordinance establishes more stringent requirements, or the outdoor lighting fixtures are advertisement signs or other fixtures on interstate highways or federal primary highways.

Additionally, the bill exempts situations where a compelling safety interest or existing legal requirement requires such lighting, including any of the following: navigational lighting for aircraft safety; outdoor lighting needed for the navigation of watercraft; fixtures necessary for worker health and safety or public health and safety; for use by law enforcement, firefighters, medical personnel, or correctional personnel; lighting for tunnels and underpasses, historic sites or structures; and seasonal and decorative lighting, as specified.

This bill requires state agencies to consider cost efficiency, energy conservation, minimization of light trespass and glare, and preservation of the natural night environment.

Related/Prior Legislation

AB 1710 (Lee, 2022) would have stated the intent of the Legislature to enact legislation relating to the regulation of residential and outdoor light-emitting diodes fixtures that create artificial light pollution at night, which causes harmful environmental and public health effects, as specified. (Never referred to an Assembly Committee)

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

According to the Senate Appropriations Committee:

- Unknown General Fund costs, likely in the millions of dollars, to replace light fixtures for over 24,000 state-owned buildings and structures according to the criteria specified in this bill. These costs will likely be spread out over an unknown amount of time based on a replacement schedule to be determined by DGS. Actual costs will be job specific and depend on the type and number of fixtures being replaced and installed for each building.

- Unknown, potentially significant General Fund costs to replace light fixtures on leased buildings. State costs will vary from minor to significant, to the extent that a lessor requires the state to cover costs associated with replacing light fixtures.

- Unknown, potentially significant costs to include light fixtures meeting the specified criteria on newly constructed buildings. Generally, DGS notes that new construction is covered by the California Green Building Standards Code's (CALGreen) backlight, uplight, and glare regulations. Any costs for compliant light fixtures in regard to new construction would be absorbed by existing project resources and included in the overall costs of construction.

SUPPORT: (Verified 8/22/22)

Santa Clara Valley Audubon Society (source)
American Bird Conservancy
California Institute for Biodiversity and Defenders of Wildfire
Citizens Committee to Complete the Refuge
Cornell Lab of Ornithology
Defenders of Wildlife

Environmental Justice Coalition for Water
Friends of Harbors, Beaches and Parks
Green Foothills
Hills for Everyone
Los Angeles Audubon Society
Midpeninsula Regional Open Space District
San Diego County Chapter of the International Dark Sky Association
Santa Clara Valley Open Space Authority
Save the Bay
Sierra Club California
The Urban Wildlands Network
Wildlands Network

OPPOSITION: (Verified 8/22/22)

California Sign Association

ARGUMENTS IN SUPPORT: In support of this bill, the Santa Clara Valley Audubon Society writes that, "[e]xcessive night light attracts nocturnal-migratory birds and diverts them from safe migration routes to human environments, where they are more susceptible to collisions with buildings and other human-made structures. A study found that reducing indoor artificial night light by half can result in roughly 60% fewer bird collisions. Insects are attracted to light as well, and when caught in a light plume of a light fixture, they circle around it until they die or the light is extinguished."

ARGUMENTS IN OPPOSITION: Opponents of the bill state that the "California Sign Association, serving California since 1959, has serious concerns about the ramifications of this legislation. We are not opposed to feasible and practicable measures that reduce light pollution, provided signage restrictions do not adversely affect the advertising message, that illumination is sufficient to convey the message, and the legislation actually does what it seeks to do."

ASSEMBLY FLOOR: 72-0, 5/23/22
AYES: Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas,

Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Aguiar-Curry, Berman, Mia Bonta, O'Donnell, Blanca Rubio, Voepel

Prepared by: Brian Duke / G.O. / (916) 651-1530
8/23/22 15:10:25

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

SENATE RULES COMMITTEE AB 2402
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2402
Author: Blanca Rubio (D), et al.
Amended: 8/18/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 8-0, 6/22/22
AYES: Pan, Eggman, Gonzalez, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Melendez, Grove, Hurtado

SENATE APPROPRIATIONS COMMITTEE: 5-0, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NO VOTE RECORDED: Bates, Jones

ASSEMBLY FLOOR: 72-0, 5/25/22 - See last page for vote

SUBJECT: Medi-Cal: continuous eligibility

SOURCE: Children Now
First 5 Association of California
First 5 Center for Children's Policy
March of Dimes
Maternal and Child Health Access
National Health Law Program
The Children's Partnership

DIGEST: This bill requires the Department of Health Care Services to seek federal authority to allow children to remain on the County Children's Health Initiative Programs until age five, without the need for a redetermination of eligibility, except in specified circumstances, starting no sooner than January 1, 2025.

Senate Floor Amendments of 8/18/22 align the date and conditions for implementation with those that were included in SB 184 (Committee on Budget and Fiscal Review, Chapter 47, Statutes of 2022) for Medi-Cal and Medi-Cal Access Program (MCAP).

ANALYSIS:

Existing federal law:

1) Requires, through regulation, that states renew eligibility for Medicaid or the Children's Health Insurance Program (CHIP) once every 12 months and not more than every 12 months for individuals whose income is determined under the Modified Adjusted Gross Income methodology (MAGI), and at least every 12 months for individuals whose income is not determined using MAGI methodology. Provides state options to continue eligibility for 6 or 12 month periods for some populations, including some children based on age or family income after the family is no longer income eligible. [42 U.S.C. §1396a(e), 42 U.S.C. §1396r–6, 42 C.F.R. §435.916]

2) Permits the Secretary of Health and Human Services to waive certain state plan requirements by approving experimental, pilot, or demonstration projects that are found by the Secretary to be likely to assist in promoting the objectives of the Medicaid or CHIP programs. [42 U.S.C. §1315, 42 U.S.C. §1397gg]

Existing state law stablishes the County Health Initiative Matching Fund to allow counties, local initiatives, and county organized health systems to apply for funding for County Children's Health Initiative Programs (C-CHIP) to provide comprehensive health insurance coverage to any child who meets citizenship and immigration requirements of the CHIP program and whose family income is at or below 317% FPL or, at or below 411% FPL, in specific geographic areas. Permits DHCS to set program rules and allows DHCS to do so via guidance prior to issuing any necessary regulations. [WIC §15850, et seq., §15858]

This bill:

1) Requires C-CHIP programs to provide continuous eligibility for a child under five years old if the child is not Medi-Cal eligible during that time, unless DHCS or the county possesses facts indicating that the family has requested the child's voluntary disenrollment, the child is deceased, the child is no longer a state resident, or the child's original enrollment was based on a state or county error or on fraud, abuse, or perjury attributed to the child or the child's representative, starting no sooner than January 1, 2025.

2) Conditions implementation of this bill on upon the Department of Health Care Services (DHCS) obtaining all necessary federal approvals, an appropriation by the Legislature, and a determination by DHCS that all systems have been programmed to implement this bill.

Background

This bill originally provided for continuous coverage for Medi-Cal, the Medi-Cal Access Program, and C-CHIP programs, meaning that eligibility redeterminations for these programs would be suspended for young children until they reach age five in order to reduce gaps in coverage. The continuous coverage pieces for Medi-Cal and the Medi-Cal Access Program were included in the 2022-2023 health trailer bill, SB 184 (Committee on Budget and Fiscal Review, Chapter 47, Statutes of 2022). The implementation of these pieces is not until January 1, 2025, and is contingent on the following: all necessary federal approvals have been obtained by DHCS, the Legislature has appropriated funding to implement this section after a determination that ongoing General Fund resources are available to support the ongoing implementation of this section in the 2024–25 fiscal year and subsequent fiscal years, and DHCS has determined that systems have been programmed to implement this section. The exclusion of the C-CHIP program in the trailer bill was not intentional. DHCS estimates that in the next fiscal year there will be just over 4,000 enrollees in the entire C-CHIP program and this would only apply to those children under age five.

Comments

Author's statement. According to the author, this bill will provide continuous health coverage for California's C-CHIP eligible population up to age five. Under current law, paperwork errors or minor fluctuations in household income can result in children becoming disenrolled from Medi-Cal. For children, there is no more important time in their development than the first five years, when 90% of brain development occurs. During this period, the American Academy of Pediatrics recommends 14 well-child visits to administer critical preventive care like immunizations and track developmental milestones. Continuous coverage will improve health outcomes while addressing the disproportionate impact of the COVID-19 pandemic on communities of color.

[Note: For complete analysis of the continuous eligibility issue, please see the Senate Health Committee analysis.]

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

According to the Senate Appropriations Committee, unknown ongoing General Fund costs, likely millions of dollars, for continuous coverage of cases in the C-CHIP program.

SUPPORT: (Verified 8/18/22)

Children Now (co-source)
First 5 Association of California (co-source)
First 5 Center for Children's Policy (co-source)
March of Dimes (co-source)
Maternal and Child Health Access (co-source)
National Health Law Program (co-source)
The Children's Partnership (co-source)
ACCESS Reproductive Justice
Advancement Project California
Association of California Healthcare Districts
Association of Regional Center Agencies
California Alliance of Child and Family Services
California Catholic Conference
California Chapter of the American College of Emergency Physicians
California Dental Association
California Immigrant Policy Center
California Medical Association
California Pan-Ethnic Health Network
California Rural Legal Assistance Foundation, Inc.
California School Employees Association
CaliforniaHealth+ Advocates
Central California Alliance for Health
Children's Specialty Care Coalition
Community Clinic Association of Los Angeles County
Community Health Initiative of Orange County
County Behavioral Health Directors Association
County of San Diego
County of Santa Clara
First 5 LA
Friends Committee on Legislation of California
Health Access California
Inland Empire Health Plan
Junior League of San Diego
Local Health Plans of California
March of Dimes
Maternal and Child Health Access
National Association of Social Workers, California Chapter
National Health Law Program
Nurse - Family Partnership

United Ways of California
Western Center on Law & Poverty

OPPOSITION: (Verified 8/18/22)

Department of Finance

ARGUMENTS IN SUPPORT: This bill is sponsored by a number of children's health advocacy organizations. Co-sponsor The Children's Partnership writes that only a very small fraction of children with coverage gaps are terminated due to income ineligibility and that the first years of a child's life is a paramount opportunity to set them up for healthy outcomes throughout their lifetime.

ARGUMENTS IN OPPOSITION: The Department of Finance writes that it is opposed to this measure because it is duplicative of efforts to provide continuous Medi-Cal coverage for children up through four years of age in the 2022 Budget Act. This opposition predates the current language removing the Medi-Cal and MCAP programs that were included in the 2022 Budget Act.

ASSEMBLY FLOOR: 72-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Kiley, Mayes, O'Donnell, Seyarto, Smith

Prepared by: Jen Flory / HEALTH / (916) 651-4111
8/22/22 15:19:26

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

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THIRD READING

Bill No: AB 2417
Author: Ting (D)
Amended: 8/24/22 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 6/21/22
AYES: Bradford, Kamlager, Skinner, Wiener
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 70-0, 5/23/22 - See last page for vote

SUBJECT: Juveniles: Youth Bill of Rights

SOURCE: Anti-Recidivism Coalition
California Association of Student Councils
California Youth Connection
Equality California
Human Rights Watch
National Center for Lesbian Rights
National Center for Youth Law
Pacific Juvenile Defender Center
W. Haywood Burns Institute
Young Women's Freedom Center

DIGEST: This bill makes the Youth Bill of Rights applicable to youth confined in any juvenile justice facility.

Senate Floor Amendments of 8/24/22 add double-jointing language to address potential chaptering issues between this bill, AB 207 (Committee on Budget), and SB 124 (Committee on Budget and Fiscal Review), and state that the rights included in the bill are declaratory of existing law.

Senate Floor Amendments of 8/22/22 eliminate a provision of existing law authorizing the Ombudsperson of the Office of Youth and Community Restoration (OYCR) and other parties to use standardized information regarding a youth's rights in carrying out their responsibilities to inform youth of their rights; specify that the demographic information of complainants that the Ombudsperson is required to collect for its annual report only needs to be included in the report to the extent that its available; and conform the bill's language to SB 187 (Senate Budget and Fiscal Review Committee) regarding the Ombudsperson's responsibilities.

ANALYSIS:

Existing law:

1) Provides that the purpose of the juvenile court system is to provide for the protection and safety of the public and each minor under the jurisdiction of the juvenile court. Requires minors under the jurisdiction of the juvenile court as a consequence of delinquent conduct to receive care, treatment, and guidance that is consistent with their best interest, that holds them accountable for their behavior, and that is appropriate for their circumstances. (Welf. & Inst. Code, § 202, subds. (a) & (b).)

2) Provides that juvenile halls shall not be deemed to be, nor be treated as, penal institutions. Requires that a juvenile hall be safe and supportive homelike environments. (Welf. & Inst. Code, § 851.)

3) Establishes the Youth Bill of Rights, which applies to youth confined at Division of Juvenile Justice (DJJ), and provides that these youth have the following rights:

    a) To live in a safe, healthy, and clean environment conducive to treatment and rehabilitation and where they are treated with dignity and respect.
    b) To be free from physical, sexual, emotional, or other abuse, or corporal punishment.
    c) To receive adequate and healthy food and water, sufficient personal hygiene items, and clothing that is adequate and clean.
    d) To receive adequate and appropriate medical, dental, vision, and mental health services.
    e) To refuse the administration of psychotropic and other medications consistent with applicable law or unless immediately necessary for the preservation of life or the prevention of serious bodily harm.

f) To not be searched for the purpose of harassment or humiliation or as a form of discipline or punishment.
g) To maintain frequent and continuing contact with parents, guardians, siblings, children, and extended family members, through visits, telephone calls, and mail.
h) To make and receive confidential telephone calls, send and receive confidential mail, and have confidential visits with attorneys and their authorized representatives, ombudspersons and other advocates, holders of public office, state and federal court personnel, and legal service organizations.
i) To have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.
j) To have regular opportunity for age-appropriate physical exercise and recreation, including time spent outdoors.
k) To contact attorneys, ombudspersons and other advocates, and representatives of state or local agencies, regarding conditions of confinement or violations of rights, and to be free from retaliation for making these contacts or complaints.
l) To participate in religious services and activities of their choice.
m) To not be deprived of any of the following as a disciplinary measure: food, contact with parents, guardians, or attorneys, sleep, exercise, education, bedding, access to religious services, a daily shower, a drinking fountain, a toilet, medical services, reading material, or the right to send and receive mail.
n) To receive a quality education that complies with state law, to attend age-appropriate school classes and vocational training, and to continue to receive educational services while on disciplinary or medical status.
o) To attend all court hearings pertaining to them.
p) To have counsel and a prompt probable cause hearing when detained on probation or parole violations.
q) To make at least two free telephone calls within an hour after initially being placed in a facility of the Division of Juvenile Facilities following an arrest. (Welf. & Inst. Code, § 224.71)

4) Requires every DJJ facility to provide each youth who is placed in the facility with an age and developmentally appropriate orientation that includes an

explanation and a copy of the rights of the youth. (Welf. & Inst. Code, § 224.72, subd. (a).)

5) Requires the Office of the Ombudspersons of DJJ to design posters and provide the posters to each DJJ facility. Requires that these posters include the toll-free phone number of the Office of the Ombudspersons of DJJ. (Welf. & Inst. Code, § 224.72, subd. (b).)

6) Requires the Office of the Ombudsperson of DJJ to investigate and attempt to resolve complaints made by or on behalf of youth in the custody of DJJ, related to their care, placement, or services, or in the alternative, refer appropriate complaints to another agency for investigation. (Welf. & Inst. Code, § 224.74, subd. (a).)

7) Requires the Office of the Ombudsperson of DJJ to compile and make available to the Legislature and the public all data collected over the course of the year, regarding the complaints made. (Welf. & Inst. Code, § 224.74, subd. (a).)

8) Requires all DJJ facilities to ensure the safety and dignity of all youth in their care and to provide care, placement, and services to youth without discriminating on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status. (Welf. & Inst. Code, § 224.73.)

9) Provides that a minor or ward may be held up to four hours in room confinement in a juvenile facility, as specified. (Welf. & Inst. Code, § 208.3.)

10) Establishes the OYCR, to support the juvenile justice realignment and to promote trauma responsive, culturally informed services for youth involved in the juvenile justice system that support the youths' successful transition into adulthood and help them become responsible, thriving, and engaged members of their communities. (Welf & Inst. Code, § 2200.)

This bill:

1) Makes the Youth Bill of Rights applicable to youth confined in any juvenile justice facility and eliminates references to DJJ.

2) Defines "juvenile facility" to mean a place of confinement that is operated by, or contracted for, the county probation department or juvenile court for the purpose of confinement of youth who are taken into custody.

3) Adds rights to the Youth Bill of Rights, including but not limited to, the following:

   a) The right to receive clean water at any time, have timely access to toilets, access to daily showers, clean bedding, and requires that clothing, grooming, and hygiene products be adequate and respect the child's culture, ethnicity, and gender identity and expression;
   b) The right to timely reproductive care;
   c) The right not to be searched to verify the youth's gender, and to searches that preserve the privacy and dignity of the person;
   d) Specifies that youth may be provided with access to computer technology to maintain contact with family members and guardians as an alternative to but not replacement for in-person visits;
   e) Extends the anti-discrimination provisions to also prohibit discrimination on the basis of a youth's language, gender expression, and immigration status;
   f) The right to daily opportunities for physical education and recreation;
   g) The right to exercise the religious or spiritual practice of their choice and to refuse to participate in religious services and activities;
   h) The right to not be deprived of clean water, toilet access, or hygiene products as a disciplinary measure and to not to be subject to room confinement as a disciplinary measure;
   i) Expands the right of youth to receive an education to the right to receive a rigorous education that prepares them for high school graduation, career entry, and postsecondary education; to attend age-appropriate appropriate level school classes; to have access to postsecondary academic and career technical education courses and programs; to have access to computer technology and the internet for the purposes of education; and to have access to information about the educational options available to youth; and
   j) Adds family and reproductive rights including, the right to information about their rights as parents, including available parental support, reunification advocacy, and opportunities to maintain or develop a connection with their children; to access educational information or programming about pregnancy, infant care, parenting, and breast-feeding, and childhood development; to proper prenatal care, diet, vitamins, nutrition, and medical treatment; to counseling for pregnant and post-partum youth; to not be restrained by the use of leg irons, waist chains, or

handcuffs behind the body while pregnant or in recovery after delivery; to not be restrained during a medical emergency, labor, delivery, or recovery unless deemed necessary for their safety and security, and to have restraints removed when a medical professional determines removal is medically necessary; and to access written policies about pregnant, post-partum, and lactating youth.

4) Requires OYCR to develop standardized information explaining these rights by July 1, 2023.

5) Makes related and conforming cross-references to the ombudsperson of OYCR, including to review, investigate, and attempt to resolve complaints made by or on behalf of youth in the custody of any juvenile facility and to compile and make available to the Legislature and the public all data collected over the course of the year, regarding the complaints made.

6) Prohibits discrimination against youths confined at juvenile facilities on the basis of gender, gender expression, or immigration status.

7) Requires the ombudsperson of OYCR to notify the complainant, if the ombudsperson decides to investigate the complaint or refer the complaint to another body for investigation, in writing of the intention to investigate or refer the complaint within 15 days of receiving the complaint.

8) Requires the ombudsperson to provide written notice to the complainant of the final outcome, steps taken during the investigation, basis for the decision, and any action to be taken as a result of the complaint.

9) Requires the ombudsperson's reports to the Legislature to include disaggregated data by gender, sexual orientation, race, and ethnicity of the complainants.

Background

This bill makes the existing Youth Bill of Rights applicable to youth confined at all juvenile justice facilities and would expand these rights to include, among other things, extending the anti-discrimination provisions to also prohibit discrimination on the basis of a youth's ethnicity, gender, gender expression, and immigration status; adding family and reproductive rights; and adding the right of youth to receive a rigorous education, including access to postsecondary education. This bill also makes other conforming changes to reflect the closure of DJJ in 2023 and the role of the Ombudsperson in the newly established OYCR.

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

According to the Senate Appropriations Committee:

- OYCR: The OYCR, within the Department of Health and Human Services, reports ongoing annual costs of $490,000 for contract and staffing resources and operations (General Fund).

- Local Reimbursements: Unknown, ongoing, potentially reimbursable costs to county probation departments to offer a possibly higher level of educational services and computer technology to wards (Local Funds, General Fund). General Fund costs will depend on whether this bill imposes a reimbursable mandate as determined by Commission on State Mandates.

SUPPORT: (Verified 8/24/22)

Anti-Recidivism Coalition (co-source)
California Association of Student Councils (co-source)
California Youth Connection (co-source)
Equality California (co-source)
Human Rights Watch (co-source)
National Center for Lesbian Rights (co-source)
National Center for Youth Law (co-source)
Pacific Juvenile Defender Center (co-source)
W. Haywood Burns Institute (co-source)
Young Women's Freedom Center (co-source)
ACLU California Action
All Saints Church Foster Care Project
Alliance for Children's Rights
Aspiranet
Bend the Arc: Jewish Action
California Association of Christian Colleges and Universities
California Attorneys for Criminal Justice
California Catholic Conference
California Coalition for Youth
California Federation of Teachers
California Public Defenders Association
Californians for Safety and Justice
Care First California
Center on Juvenile and Criminal Justice
Ceres Policy Research

Children Now
Children's Advocacy Institute, University of San Diego
Commonweal Juvenile Justice Program
Communities United for Restorative Youth Justice
County Behavioral Health Directors Association
County of Los Angeles
County of San Diego
Democratic Club of Claremont
Drug Policy Alliance
East Bay Community Law Center
Ella Baker Center for Human Rights
Empowering Pacific Islander Communities
Freedom 4 Youth
Fresh Lifelines for Youth
Fresno Barrios Unidos
Fresno County Public Defender's Office
Friends Committee on Legislation of California
Human Rights Watch
IGNITE
Immigrant Legal Resource Center
Initiate Justice
John Burton Advocates for Youth
Justice Policy Institute
Juvenile Law Center
Kids in Common
Los Angeles County District Attorney's Office
National Association of Social Workers, California Chapter
National Juvenile Justice Network
Santa Cruz Barrios Unidos
The Children's Initiative
The Gathering for Justice
UnCommon Law
Urban Peace Institute
Young Women's Freedom Center
Youth Alive!
Youth Forward

OPPOSITION: (Verified 8/24/22)

Chief Probation Officers of California

ASSEMBLY FLOOR: 70-0, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Bigelow, Mia Bonta, Gallagher, Kiley, O'Donnell, Blanca Rubio, Seyarto

Prepared by: Stephanie Jordan / PUB. S. /
8/26/22 15:47:40

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

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THIRD READING

Bill No: AB 2418
Author: Kalra (D)
Amended: 8/25/22 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 6/28/22
AYES: Bradford, Kamlager, Skinner, Wiener
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 51-15, 5/26/22 - See last page for vote

SUBJECT: Crimes: Justice Data Accountability and Transparency Act

SOURCE: American Civil Liberties Union
Congregations Organized for Prophetic Engagement
Prosecutor's Alliance California
San Francisco District Attorney's Office
Yolo County District Attorney's Office

DIGEST: This bill requires, according to specified timeframes, state and local prosecution offices to collect and transmit various data regarding criminal cases to the Department of Justice (DOJ), which is required to verify and publish the data. Additionally, this bill requires the DOJ to establish the Prosecutorial Transparency Advisory Board, as specified.

Senate Floor Amendments of 8/25/22 make several clarifying changes, including reorganizing the measure's privacy protection provisions, requiring DOJ to develop regulations for protecting personal identifying information, adding specifications regarding the format in which data will be published, and making the operation of the bill's provisions contingent on an adequate appropriation by the Legislature.

ANALYSIS:

Existing law:

1) Provides that it is the duty of the DOJ to:

    a) Collect data necessary for the work of the department from specified persons and agencies as specified and from any other appropriate source.
    b) Prepare and distribute to all those persons and agencies cards, forms, or electronic means used in reporting data to the department.
    c) Recommend the form and content of records that must be kept by those persons and agencies in order to ensure the correct reporting of data to the department.
    d) Instruct those persons and agencies in the installation, maintenance, and use of those records and in the reporting of data therefrom to the department.
    e) Process, tabulate, analyze, and interpret the data collected from those persons and agencies.
    f) Supply to federal bureaus or departments engaged in the collection of national criminal statistics data they need from this state at their request.
    g) Make available to the public, through the department's OpenJustice Web portal, information relating to criminal statistics, to be updated at least once per year.
    h) Periodically review the requirements of units of government using criminal justice statistics, and to make recommendations for changes it deems necessary, as specified. (Pen. Code, § 13010.)

2) Requires DOJ to collect data pertaining to the juvenile justice system for criminal history and statistical purposes. (Pen. Code, 13010.5.)

3) Provides that the information published on the OpenJustice Web portal shall contain statistics showing all of the following:

    a) The amount and the types of offenses known to the public authorities.
    b) The personal and social characteristics of criminals and delinquents.
    c) The administrative actions taken by law enforcement, judicial, penal, and correctional agencies or institutions, including those in the juvenile justice system, in dealing with criminals or delinquents.
    d) The administrative actions taken by law enforcement, prosecutorial, judicial, penal, and correctional agencies or institutions, including those in the juvenile justice system, in dealing with minors who are the subject of a petition in the juvenile court to transfer their case to an adult criminal court

or whose cases are directly filed or otherwise initiated in an adult criminal court.
   e) Specified data regarding civilian complaints. (Pen. Code, § 13012(a).)

4) Provides that the DOJ shall give adequate interpretation of the above statistics and present the information so that it may be of value in guiding the policies of the Legislature and of specified criminal justice system actors. This interpretation shall be presented in clear and informative formats. (Pen. Code, § 13012(b).)

5) Provides that the DOJ shall maintain a data set, updated annually and made available on the OpenJustice Web portal, which contains the number of crimes reported, number of clearances, and clearance rates in California as reported by individual law enforcement agencies. (Pen. Code §13013.)

6) Imposes a duty on every person or agency dealing with crimes or criminal defendants or with delinquency or delinquent minors, when requested by the Attorney General:

   a) To install and maintain records needed for the correct reporting of statistical data required by him or her
   b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes
   c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title. (Pen. Code, § 13020.)

This bill:

1) Establishes several objectives and mandates for the DOJ related to the provisions of this bill, including:

   a) The collection of specified data elements from state and local prosecutor offices, as specified. Under this provision, DOJ shall develop consistent and clear guidelines for how agencies are to define data elements transmitted to the department.
   b) The transmission and aggregation of data elements as defined.
   c) The development and publication of metrics, as defined, and ensuring that personal identifying information is not published except as allowed by law.

2) Includes guidance for the department in carrying out its objectives and mandates, including what technology, processes and practices to employ.

3) Requires the DOJ, by October 1, 2023, to establish the Prosecutorial Transparency Advisory Board (Board) for the purpose of ensuring transparency, accountability, and equitable access to prosecutorial data, whose primary responsibilities are to provide guidance to the department on draft rules, regulation, policies, plans, reports, or other decisions made by the department with regard to this bill.

4) Specifies the composition of the Board.

5) Provides that, by July 1, 2024, the DOJ, in consultation with the Board, shall develop a data dictionary that includes standardized definitions for each data element so that data elements transmitted to the department are uniform across all jurisdictions, taking into account any technical and practical limitations on the collection of that data element.

6) Requires the DOJ, upon completion of the data dictionary, to share the dictionary with all agencies statewide.

7) Provides that, beginning March 1, 2027, every agency statewide shall collect every specified data element for cases in which a decision to reject charges or to initiate criminal proceedings by way of complaint or indictment has been made by that agency from that date forward.

8) Provides that each data element shall be collected according to specified definitions with any ambiguity to be resolved by the DOJ, and shall be submitted in a format designated by the department, as specified.

9) Provides that, beginning June 1, 2027, every agency statewide, at the direction of the DOJ, shall begin transmitting its required data elements to the department, which shall occur on a quarterly basis until June 1, 2028, after which data elements shall be transmitted on a monthly basis.

10) Provides that, beginning June 1, 2027, the DOJ shall begin collecting data elements from all agencies as specified, and shall aggregate data elements for all agencies in order to publish this data by June 1, 2028. This publication shall continue on a quarterly basis for one year, and then the publication shall occur on a monthly basis thereafter.

11) Allows DOJ to obtain information from sealed and expunged records and in other circumstances that may normally be prohibited from being disclosed, but provides that the DOJ shall not publish the name, birthdate, or Criminal Identification and Information number assigned by the department of any defendant or victim.

12) Specifies the 54 discrete data elements that each prosecuting agency is responsible for collecting and transmitting to the DOJ.

13) Provides that each prosecuting agency that only has select divisions that prosecute crimes must provide specified information each year by July 1.

14) Specifies that the information contained in the prescribed data elements shall be public records for the purposes of the California Public Records Act, but that any personal identifying information may be redacted prior to disclosure.

15) Specifies that operation of this bill's provisions is contingent upon an appropriation by the Legislature.

16) Includes various findings and declarations related to the importance of data collection and transparency.

Comments

According to the author, "District attorneys are constitutionally elected county officials responsible for the prosecution of criminal violations of state law and county ordinances. They not only determine the crimes with which people are charged, but also play a central role in whether people are detained or released pretrial, whether people are convicted of the crimes they were charged with, which sentences people receive, how people's prior criminal history may impact their treatment in the system, and who is in prison and jail. Despite the extraordinary power they wield, elected district attorneys report very little public data on critical decisions such as charging rationale, the length of time it takes for a case to move through the criminal justice process, and the number of certain crimes that have been charged, to name a few examples. This lack of transparency has only allowed racial bias to proliferate within the criminal legal system."

California has long been a national leader on criminal justice reform and innovation, but only in the last several years has the state refocused its attention to aggregating and publishing crime data for the purposes of self-assessment and transparency. Recent efforts to modernize statewide systems of data collection and representation began in earnest with the DOJ's creation of the OpenJustice portal in 2015, and the Legislature's passage of the OpenJustice Data Act of 2016 (AB 2524, Irwin, Chapter 418, Statutes of 2016). These reforms leveraged statistical data maintained by the DOJ and other public datasets to create a dynamic, user-friendly dashboard that presented crime statistics in a more digestible format. Local governments have followed the state's lead in embracing data transparency

Despite these reforms, critics argue that the state's data transparency policies remain flawed on many fronts. A recent report from Stanford Law School's Criminal Justice Center highlighted the deficiencies of the current system:

> In stark contrast to California's culture and history, its criminal justice data are not readily available to the public. There is also significant confusion among practitioners and local policy makers about what data can be shared and with whom. This confusion creates daunting barriers to criminal justice data sharing and, in turn, needed criminal justice research. In addition, differing legal interpretations regarding whether court records fall within the Criminal Offender Record Information (CORI) statutory scheme create ambiguity regarding access to criminal court records from California Superior Courts, despite court records being presumptively open to the public. In particular, California Rules of Court are regularly interpreted to limit—and often prevent—the sharing of court records, without any exceptions for bona fide research efforts. This means that researchers and the public are already fighting an uphill battle to access criminal justice data before they even start. […] Numerous research efforts have been stymied by gaps in criminal justice data infrastructure, varying interpretation of data sharing laws and regulations, or both. Collectively, these challenges translate to both missed opportunities and concerning roadblocks to transparency.

This bill seeks to address these and other issues related to California's data collection and transparency systems. Specifically, this bill creates a new framework of data collection and reporting by California's criminal prosecution agencies, and establishes several objectives and mandates for DOJ related to that effort and publishing the data collected. Moreover, this bill requires every prosecution agency in California to collect more than 50 specified data elements, and transmit them to DOJ in a standardized format as prescribed by the department. This bill includes a delayed implementation for its data collection, aggregation and publication provisions: agencies would not be required to start collecting until March 1, 2027, and the first data would not be published until June 1, 2028.

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

According to the Senate Appropriations Committee:

- Total costs in the hundreds of millions and ongoing annual costs of more than $10 million, to aggregate, verify and publish the data provided by each of the prosecutorial agencies in the State, and to establish the Prosecutorial Transparency Board (General Fund).

- Unknown, potentially reimbursable costs, possibly in the tens of millions for prosecuting agencies to provide detailed information to the DOJ regarding all misdemeanor and felony prosecutions (Local Funds, General Fund). Costs to the General Fund will depend on whether the duties imposed by this bill are considered a state reimbursable mandate by the Commission on State Mandates.

SUPPORT: (Verified 8/25/22)

American Civil Liberties Union (co-source)
Congregations Organized for Prophetic Engagement (co-source)
Prosecutor's Alliance California (co-source)
San Francisco District Attorney's Office (co-source)
Yolo County District Attorney's Office (co-source)
Cal Voices
California Federation of Teachers
California Innocence Coalition
California Public Defenders Association
Center on Juvenile and Criminal Justice
Disability Rights California
Ella Baker Center for Human Rights
Los Angeles County District Attorney's Office
Oakland Privacy
Smart Justice California

OPPOSITION: (Verified 8/25/22)

California Law Enforcement Association of Records Supervisors

ASSEMBLY FLOOR: 51-15, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Salas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Cunningham, Megan Dahle, Flora, Fong, Gallagher, Kiley, Mathis, Nguyen, Patterson, Seyarto, Smith, Voepel, Waldron

NO VOTE RECORDED: Berman, Choi, Cooper, Davies, Gray, Irwin, Lackey, Mayes, O'Donnell, Rodriguez, Valladares, Villapudua

Prepared by: Alex Barnett / PUB. S. /
8/26/22 15:47:40

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

SENATE RULES COMMITTEE AB 2438
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2438
Author: Friedman (D)
Amended: 8/25/22 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 9-4, 6/28/22
AYES: Allen, Archuleta, Becker, Dodd, Limón, McGuire, Min, Skinner, Wieckowski
NOES: Bates, Dahle, Melendez, Wilk
NO VOTE RECORDED: Newman, Cortese, Hertzberg, Rubio

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 41-23, 5/25/22 - See last page for vote

SUBJECT: Transportation funding: guidelines and plans

SOURCE: Author

DIGEST: This bill requires various state transportation programs to incorporate strategies from the Climate Action Plan for Transportation Infrastructure (CAPTI) into program guidelines. Also requires various state agencies to establish new transparency and accountability guidelines for certain transportation funding programs, as specified.

Senate Floor Amendments of 8/25/22 incorporate provisions of AB 2514 (M. Dahle) to prevent chaptering out.

ANALYSIS:

Existing law:

1) Vests the California Department of Transportation (Caltrans) with the full possession and control of all state highways and all property and rights in property acquired for state highway purposes.

2) Creates the California State Transportation Agency (CalSTA) and vests it various responsibilities including, but not limited to, the implementation and programming of the Transit and Intercity Rail Capital (TIRCP) program, which is a competitive program to fund transformative transit capital improvements that will modernize California's intercity, commuter, and urban rail systems and bus and ferry transit systems; and the State Rail Assistance (SRA) programs, which allocates revenue annually, on a formula basis, to intercity rail and commuter rail for capital and operations.

3) Creates the California Transportation Commission (CTC) and vests it with various responsibilities, including programming and allocating funds for the construction of highway, passenger rail, transit, and active transportation improvements through various transportation programs.

4) Requires Caltrans to prepare a State Highway System Management Plan (SHSMP) that consists of both a 10-year state highway rehabilitation plan and a 5-year maintenance plan. Requires Caltrans to submit the draft plan to the CTC for review and comment by February 15 of each odd-numbered year, and to transmit the final plan to the Governor and the Legislature by June 1 of each odd-numbered year.

5) Requires Caltrans to develop the State Highway Operations and Protection Program (SHOPP) based on the Transportation Asset Management Plan, to guide expenditures of federal and state funds for major capital improvements to preserve and maintain the state highway system. Limits SHOPP projects to capital improvements relative to maintenance, safety, and rehabilitation of state highways and bridges that do not add a new lane to the system.

6) Enacts the Road Repair and Accountability Act of 2017, SB 1 (Beall), Chapter 5, Statutes of 2017, which provides roughly $5.2 billion annually to fund the state's highways, local streets and roads, public transportation, and active transportation programs. SB 1 created new transportation competitive programs, to be allocated by the CTC, including: (a) Local Partnership Program

(LPP), funded at $200 million annually, for local or regional transportation agencies that have sought and received voter approval of taxes or that have imposed certain fees, for which those taxes or fees are dedicated solely to transportation improvements. (b) Trade Corridor Enhancement Program (TCEP), funded at $300 million annually, for infrastructure improvements on federally designated Trade Corridors of National and Regional Significance, on the Primary Freight Network, and along other corridors that have a high volume of freight movement. (c) Solutions for Congested Corridors (SCCP), funded at $250 million annually, for projects that implement specific transportation performance improvements and are part of a comprehensive corridor plan, by providing more transportation choices while preserving the character of local communities and creating opportunities for neighborhood enhancement.

7) Provides for the funding of projects for state highway improvements, intercity rail, and regional highway and transit improvements, through the State Transportation Improvement Program (STIP), which consists of two broad sub-programs: the Regional Transportation Improvement Program (RTIP) and the Interregional Transportation Improvement Program (ITIP).

8) Requires Caltrans to produce, and update every five years, the California Transportation Plan (CTP), a long-range transportation planning document intended to integrate state and regional transportation planning while considering specified pertinent subject areas. Requires, Caltrans to update the CTP, as specified, and requires the Strategic Growth Council (SGC), by January 31, 2022, to submit a report to the Legislature on interactions of the CTP and SCS/APS plans, and a review of the potential impacts and opportunities for coordination between specified programs.

9) Establishes the California Air Resources Board (ARB) as the air pollution control agency in California and requires ARB, among other things, to control emissions from a wide array of mobile sources and coordinate, encourage, and review the efforts of all levels of government as they affect air quality. Requires ARB to determine the 1990 statewide greenhouse gas (GHG) emissions level, and achieve that same level by 2020 (AB 32), and achieve a 40% reduction from that level by 2030 (SB 32).

This bill:

CalSTA

1) Requires CalSTA to, no later than January 1, 2024, to establish guidelines to ensure transparency and accountability, including the project selection processes, for the TIRCP and SRA programs.

2) Requires the guidelines to do all of the following: (a) ensure project application summaries is publicly available for public review before a decision to award funds; (b) ensure the project selection process incorporates strategies established in the CAPTI, adopted by CalSTA in July 2021 that are applicable to the program; (c) require that a recommendation for a project to be funded be released in an accessible format before a decision to award funds; and (d) include any other best practices identified through public input solicited, as specified.

3) Requires CalSTA to hold public workshops to solicit public input prior to developing the guidelines to ensure that they will provide the public with the information necessary for meaningful participation in CalSTA's actions to award funds for the transportation funding programs that it administers.

4) Stipulates that this shall not supersede any conflicting provision of an existing guideline process or existing maintenance and rehabilitation requirements.

Caltrans

5) Requires Caltrans to, no later than January 1, 2024, to establish guidelines to ensure transparency and accountability, including the project selection processes, for the ITIP and the SHOPP.

6) Requires the guidelines to do all of the following: (a) ensure project nomination information are publicly available for public review before a decision to award funds; (b) ensure the project selection process incorporates strategies established in the CAPTI, adopted by CalSTA in July 2021, that are applicable to the programs; (c) require that a recommendation for a project to be funded be released in an accessible format at least 20 days before a decision to award funds; and include any other best practices identified through public input solicited, as specified.

7) Requires Caltrans to hold public workshops to solicit public input prior to developing the guidelines to ensure that they will provide the public with the information necessary for meaningful participation in Caltrans' actions to award funds for the transportation funding programs that it administers.

8) Stipulates that this shall not supersede any conflicting provision of an existing guideline process or existing maintenance and rehabilitation requirements.*CTC*

7) Requires CTC to, no later than January 1, 2024, to establish guidelines to ensure transparency and accountability, including the project selection processes, for LPP, TCEP, and SCCP.

8) Requires the guidelines to do all of the following: (a) ensure project nomination information is publicly available for public review before a decision to award funds; (b) ensure the project selection process incorporates strategies established in the CAPTI, adopted by CalSTA in July 2021 that are applicable to the program; (c) require that a recommendation for a project to be funded be released in an accessible format at least 20 days before a decision to award funds; and (d) include any other best practices identified through public input solicited, as specified.

9) Requires CTC to hold public workshops to solicit public input prior to developing the guidelines to ensure that they will provide the public with the information necessary for meaningful participation in CTC's actions to award funds for the transportation funding programs that it administers.

10) Stipulates that this shall not supersede any conflicting provision of an existing guideline process or existing maintenance and rehabilitation requirements.

Transportation Programs

11) Requires, that no later than January 1, 2024, program guidelines include the strategies established in CAPTI as adopted by CalSTA in July 2021, for the following state transportation programs: ITIP, SHSMP, LPP (competitive component), TCEP, and SCCP.

12) Clarifies that the comprehensive corridor plans required for projects to receive funding from the SCCP be "multimodal" corridor plans.

CTP

13) Requires the CTP to include a financial element that contains: (a) a summary of the full cost of the implementation of the plan; (b) a summary of available revenues through the planning period; (c) an analysis of what is feasible within the plan if constrained by a realistic projection of available revenues; and (d) an evaluation of the feasibility of any policy assumptions or scenarios included in the plan. The financial element may also include a discussion of tradeoffs within the plan considering financial constraints.

14) Incorporates provision of AB 2514 (M. Dahle) to prevent chaptering out.

Comments

1) *Purpose of the bill.* According to the author, "AB 2438 requires the state's largest transportation funding sources to incorporate the administration's Climate Action Plan on Transportation Infrastructure (CAPTI) into the guidelines process for project selection for transportation funding. The strategies and principles of CAPTI are something we have been trying to accomplish at the state and federal level in order to build a more connected transportation infrastructure based on efficient land use, equity, and reducing greenhouse gas emissions. We cannot ignore that a $30 billion sector of state funding is directly tied to 40% of California's greenhouse gas emissions. It is time for California to reassess our transportation funding and planning system to put people before the car."

2) *Transportation and climate change.* California's transportation network consists of streets, highways, railways, bicycle routes, and pedestrian pathways. Funding for the network comes from federal, state, and local taxes, fees and assessments, private investments and tribal investments. Currently, roughly $35 billion (federal, state, and local funds combined) is spent annually in California on building and maintaining the transportation network. Additionally, with the passage of the federal Infrastructure Investment and Jobs Act (IIJA, P.L. 117-58), California is expected to receive approximately $40 billion over five years.

   Emissions from the transportation sector, the state's largest source of GHGs, are still on the rise despite statewide GHG emission reduction efforts and increasingly ambitious targets. According to ARB's GHG emission inventory, transportation sector emissions have grown to 41% of California's total

emissions as of 2017. California has targeted a 22% reduction in vehicle miles travelled (VMT) per capita below 2019 levels by 2045 as part of its larger strategy to reduce GHG emissions.

3) *What is the CAPTI*? On September 20, 2019, Governor Newsom issued Executive Order (EO) N-19-19, which called for actions from multiple state agencies to reduce GHG emissions and mitigate the impacts of climate change. Specifically, the EO empowered CalSTA to leverage more than $5 billion in annual state transportation spending for construction, operations, and maintenance to help reverse the trend of increased fuel consumption and reduce GHG emissions associated with the transportation sector. The EO directed CalSTA to work to align transportation spending with the state's Climate Change Scoping Plan, where feasible; direct investments to strategically support smart growth to increase infill housing production; reduce congestion through strategies that encourage a reduction in driving and invest further in walking, biking, and transit; and ensure that overall transportation costs for low-income Californians do not increase as a result of these policies.

   To that end, CalSTA adopted the CAPTI in July 2021. The CAPTI is the action plan to implement the EO. Specifically, the CAPTI is "a framework and statement of intent for aligning state transportation infrastructure investments with state climate, health, and social equity goals, built on the foundation of the 'fix-it-first' approach established in SB1". Additionally, CalSTA notes that CAPTI is a living document that can "adapt, pivot, and modify approaches and actions, as needed." The CAPTI contains an overall transportation investment framework and specific strategies to implement the plan through state agency actions. In August 2021, the CTC endorsed CAPTI's framework and strategies and began a process of incorporating it into program guidelines for the programs they administer.

4) *AB 285 report says we need to better align traditional funding programs with state climate goals.* AB 285 (Friedman, Chapter 605, Statutes of 2019), required the SGC to develop a report to look at various aspects of state and regional transportation planning and funding. The *California Transportation Assessment Report* was developed through work of the University of California Institute for Transportation Studies (UCITS). The report includes findings and provides recommendations to help the state align transportation funding with state climate goals. Specifically, the report suggest this could be done through, "the reviewing and prioritizing various state goals within transportation funding program guidelines or statute. For example, the statute that governs State

Highway Operation and Protection Program (SHOPP) and State Transportation Improvement Program (STIP) funding has its goals based on rehabilitation and maintenance, safety, operations, and expansion, but no reference to climate or equity. This revisiting of goals could also involve ensuring that additional funds or future funds (including federal infrastructure funds) are spent in ways that align with priority goals."

The AB 285 process is still ongoing as SGC is in final stages of meeting with stakeholders to discuss the findings of the report and ultimately produce recommendations for the administration and lawmakers to fully consider.

5) *SB 1 and "fix it first."* In 2017, the Legislature passed and Governor Brown signed into law, SB 1 (Beall, Chapter 5, Statutes of 2017), which provides roughly $5.2 billion annually for highways, local streets and roads, public transit, and bicycle and pedestrian facilities. SB1's guiding principle was "fix it first," or focusing the state's transportation spending to maintain a state of good repair of the existing system. Specifically, SB 1 included performance outcomes for Caltrans to meet for the state highway system by 2027, through investments in the SHOPP and maintenance programs. SB 1 also created new competitive programs to focus on key areas, including 1) TCEP, funded at $300 million annually, for infrastructure improvements on federally designated Trade Corridors of National and Regional Significance, on the Primary Freight Network, and along other corridors that have a high volume of freight movement; 2) SCCP, funded at $250 million annually, for projects that implement specific transportation performance improvements and are part of a comprehensive corridor plan, by providing more transportation choices while preserving the character of local communities and creating opportunities for neighborhood enhancement; and 3) LPP, funded at $200 million annually, for local or regional transportation agencies that have sought and received voter approval of taxes or that have imposed certain fees, for which those taxes or fees are dedicated solely to transportation improvements.

The state's climate goals are already reflected in some of the SB 1 programs criteria, especially the SCCP, which includes "furtherance of state and federal ambient air standards and GHG emissions reduction standards," as scoring criteria for project awards. Additionally, both the TCEP and SCCP require that nominated projects must be included in a regional transportation plan, including a sustainable communities strategy if in an MPO area.

6) *AB 2438 codifies the CAPTI.* One of the recommendations of the AB 285 report is to "align existing funding programs with state goals." AB 2438 tries to implement this goal by requiring numerous state funding programs, including the ITIP, which is 25% of the STIP; the SHSMP, which informs the development of the SHOPP; and the SB 1 competitive programs, LPP, TCEP, and SCCP, to incorporate strategies established by the CAPTI.

   As mentioned, the CAPTI details specific strategies relevant to various state transportation programs. For example, the CAPTI recommends Caltrans, "update the 2023 SHSMP's SHOPP and maintenance investment strategies and performance outcomes to align with CAPTI investment framework. The update will include the following approaches or considerations, at a minimum: active transportation, climate resiliency, nature-based solutions, greenhouse gas emission reduction, and climate smart decision-making."

   Further, for TCEP, the CAPTI recommends, "pursue updated TCEP Guidelines to prioritize projects that improve trade corridors by demonstrating a significant benefit to improving the movement of freight and also reduce emissions by creating or improving zero-emission vehicle charging or fueling infrastructure either within the project itself or within the larger trade corridor."

   Additionally, some of the CAPTI strategies are cross cutting, such as, updating SHOPP and SB 1 competitive program guidelines to incentivize climate adaptation and climate risk assessments/strategies. Specifically, "CalSTA and CTC will evaluate OPR/Caltrans Climate Risk Assessment Planning and Implementation Guidance and pursue inclusion in SHOPP, TIRCP, and SB 1 Competitive Program Guidelines."

   As previous noted, the CalSTA describes the CAPTI a living document that can "adapt, pivot, and modify approaches and actions, as needed." It is unclear how codifying the specific 2021 version of the CAPTI may affect the agency's ability to update and modify the plan and how that would be incorporated into these programs.

7) *The work has already begun.* Much of the work required by AB 2438 has already begun or been adopted. As noted, in August 2021, the CTC endorsed CAPTI's framework and strategies. As such, it has already begun to incorporate CAPTI into the update for the guidelines of the SB 1 competitive programs. For example, the guidelines now state that the CTC encourages projects that align with the state's climate goals. As part of the evaluation criteria for LPP,

CTC will give higher priority to projects that, among other things, "address how a proposed project will reduce GHG emissions and criteria pollutants and advance the state's air quality and climate goals; and how a proposed project will minimize VMT while maximizing person throughput." For TCEP, CTC is requiring each project applicant to, "communicate a project's benefits related to advancing climate change resilience, by identifying both the climate change impacts that are occurring or anticipated, and the adaptive strategies."

TCEP will also be informed by the Clean Freight Corridor Efficiency Assessment required by SB 671 (Gonzalez, Chapter 769, Statues of 2021), which is now being developed by the CTC. The assessment will identify freight corridors and the infrastructure needed to support the deployment of zero-emission medium and heavy-duty vehicles. CTC, and other relevant state agencies, are required to then incorporate the recommendations into their respective programs for freight infrastructure.

The CTC gave an update on its incorporation of CAPTI into the SB1 program guidelines at their upcoming meeting on June 29, 2022. Of the three programs named in the bill, SCCP, LPP, and TCEP, CTC reports they have incorporated 11 recommended short-term implementation strategies, with working beginning on the medium-term strategies. Additionally, at its March 2022 CTC meeting, changes to the SHOPP guidelines were presented, which include a requirement that, "Caltrans shall take Climate Action Plan for Transportation Infrastructure (CAPTI) strategies as well as the Caltrans Equity Statement into consideration in the development and implementation of the State Highway System Management Plan."

8) *Increased transparency*. AB 2438 also includes provisions aimed at increasing transparency and accountability. Specifically, the bill requires CalSTA, Caltrans, and CTC to establish guidelines to ensure transparency and accountability for the programs named in the bill. The bill requires that prior to the guidelines being developed each of the departments must hold public workshops to solicit public input to ensure the guidelines will provide the pubic with the information necessary for meaningful participation in the department's actions to award transportation funding.

The CTC already conducts extensive year-long stakeholder outreach, including numerous workshops, as part of the guidelines process for all of the programs they administer. Additionally, they publish staff recommendations of awards prior to adoption by the commissioners in a public meeting. The SHOPP

statute requires Caltrans to provide a draft SHOPP program to regional transportation agencies and the CTC, and requires the CTC to hold at least one hearing in northern California and one hearing in southern California regarding the proposed program. Finally, the SHOPP is adopted at a public CTC meeting. To recognize this work, the bill states that the requirements shall not supersede any conflicting provision of existing guideline processes or existing maintenance and rehabilitation requirements. It is unclear how this will be interpreted by the implementing departments.

9) *Fiscally constrain the CTP.* Approved in February of 2021, the latest update of the California Transportation Plan, CTP 2050, is the state's statutorily fiscally unconstrained long-range transportation roadmap for policy change. CTP 2050 is designed to provide a unifying and foundational policy framework for making effective, transparent, and transformational transportation decisions in California and identify a timeline, roles, and responsibilities for each plan recommendation. The CTP does not contain specific projects, but rather policies and strategies to close the gap between what regional plans aim to achieve and how much more is required to meet 2050 goals. The CTP is seen as an aspirational document and is difficult to evaluate when compared to regional plans are required to provide an assessment of expected future funding to implement the plan. One of the recommendations of the AB 285 report that is universally supported by stakeholders is "updating and better aligning among existing state and regional plans," including adding a fiscal analysis to the CTP. AB 2438 requires the CTP to include a financial element that summarizes the full cost of plan implementation constrained by a realistic projection of available revenues. Additionally, the financial element may include a discussion of tradeoffs with the plan considering financial constraints.

10) *Climate goals vs. Fix it First.* According to the author, AB 2438 is attempting to implement the recommendations of both CAPTI and the AB 285 report. Adding CAPTI goals to existing transportation funding programs may set up a difficult debate about state priorities for funding transportation. As noted in the AB 285 report, some transportation funding programs are considered "older programs" that prioritized rehabilitation and maintenance, safety, operations, and expansion, however, most of the programs covered by the bill were created and updated in the last few years. These programs, specifically those created by SB 1, were debated by the Legislature with a full understanding of the state's climate goals at that time, which is why some of these contain climate criteria. As discussed, Governor Newsom, through executive actions, has amplified the state's commitment to combat climate

change. Even with the infusion of new federal money and historic state investment in transportation, the SHSMP shows us that there is still a great need. Pending legislation, SB 1121 (Gonzalez), calls for the CTC develop a needs assessment, covering a 10 year horizon, of the cost to operate, maintain, and provide for the future growth and resiliency of the state and local transportation system. The assessment, which includes a look at climate change impacts to infrastructure, will help inform the conversation.

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

According to the Senate Appropriations Committee:

- Caltrans estimates ongoing costs of approximately $572,000 annually and 3.0 PY of staff for work associated with the development of a fiscally constrained financial element as part of the California Transportation Plan (CTP) and associated recommendations for funding allocations. In addition, Caltrans estimates costs of $2 million on a permanent biennial basis for a consultant contract to prepare the financial element with every update to the Plan. (State Highway Account)

- Minor and absorbable costs for Caltrans, the California Transportation Agency (CalSTA), and the California Transportation Commission (CTC) to update their respective specified transportation program guidelines. (State Highway Account)

- Unknown, potentially significant redirection of transportation funding, to the extent incorporating CAPTI strategies directs allocations to projects and facilities primarily focused on improving greenhouse gas emissions, public health, and equity. This could lead to significant cost pressures to provide additional funding for projects and facilities that would have otherwise received funding under a "fix it first" model, absent the bill. (General Fund, various special funds, federal funds, bond funds)

SUPPORT: (Verified 8/22/22)

350 Bay Area Action
Acterra: Action for a Healthy Planet
Active San Gabriel Valley
Acton & Agua Dulce Democratic Club
Alameda County Democratic Party
American Lung Association in California
Asian Pacific Islander Forward Movement

Ban Single Use Plastic
Bike Walk Alameda
California Alliance for Retired Americans
California Democratic Party
California Environmental Voters
California Nurses for Environmental Health and Justice
California Walks
Center for Climate Change & Health
Center for Community Action & Environmental Justice
Central California Asthma Collaborative
Central Coast Alliance United for a Sustainable Economy
City of Alameda
City of Alhambra
City of Imperial Beach
City of La Mesa
City of South Pasadena
CivicWell
Climate Action Campaign
Climateplan
Coalition for Clean Air
Communities Actively Living Independent & Free
Day One
Endangered Habitats League
Environmental Health Coalition
Glendale Democratic Club
Ground Game LA
Leadership Counsel for Justice and Accountability
Mayor of Richmond Tom Butt
Mothers Out Front California
Move LA
Move La, a Project of Community Partners
NextGen California
No 710 Action Committee
NRDC
Pacific Environment
Pasadena Complete Streets Coalition
People Organized for Westside Renewal
Physicians for Social Responsibility - San Francisco Bay Area Chapter
Planning and Conservation League
Policylink

Progressive Caucus of the California Democratic Party
Public Health Advisory Council, Climate Actions Campaign
Public Health Institute
Regional Asthma Management and Prevention
Safe Routes to School National Partnership
San Diego County Bicycle Coalition
San Diego Pediatricians for Clean Air
Sandiego350
Spur
Streets for All
Streets for People Bay Area
Sustainable Claremont
The Climate Center
Throop Unitarian Universalist Church, Pasadena
Transform
U.S. Rep. Nanette Diaz Barragán
Unite Here Local 30
Urban Environmentalists
Yimby Action

OPPOSITION: (Verified 8/24/22)

Association of California Cities – Orange County
Auto Care Association
Building Owners and Managers Association of California
California Automotive Wholesalers' Association
California Building Industry Association
California Business Properties Association
California Business Roundtable
California Manufacturers & Technology Association
California Retailers Association
California State Council of Laborers
Chemical Industry Council of California
City of Corona
Contra Costa Transportation Authority
County of Riverside
Inland Empire Economic Partnership
Madera County Transportation Commission
Mobility 21
Mono County Local Transportation Commission

NAIOP of California, the Commercial Real Estate Development Association
Orange County Business Council
Orange County Transportation Authority
Riverside County Transportation Commission
San Bernardino Associated Governments
San Joaquin Valley Policy Council
San Luis Obispo Council of Governments
Santa Barbara County Association of Governments
Self-Help Counties Coalition
Stanislaus Council of Governments
State Building & Construction Trades Council of California
Transportation Agency for Monterey County
Transportation Authority of Marin
Western Independent Refiners Association

ARGUMENTS IN SUPPORT: According to a coalition of clean air advocates, such as the American Lung Association, "California is home to the most difficult air pollution challenges in the United States, and climate change impacts our clean air progress through more extreme heat, drought and wildfire smoke impacts. A recent report from the Strategic Growth Council found that there remains significant misalignment between State-funded transportation projects and our climate standards. California's ability to reach climate standards (and clean air standards) is significantly impacted by continued investment in land use and transportation projects that increase our dependence on vehicle travel. We must focus transportation investments on projects and programs that increase affordable, clean mobility choices for all communities that clean our air and reduce greenhouse gases.

"AB 2438 would support transportation investments that align with California climate standards by requiring state transportation funding guidelines to be updated to align with the California Transportation Plan (CTP), the Climate Action Plan for Transportation Infrastructure (CAPTI) and state clean air and climate standards. The bill would also require relevant state agencies (CalSTA, Caltrans, CTC) to include CAPTI strategies in funding program guidelines by January 1, 2024, and ensure accountability and transparency measures for those programs and project selection."

ARGUMENTS IN OPPOSITION: According to the State Building and Construction Trades Council, AFL-CIO, "AB 2438 subverts the fundamental purpose for which all projects in the State Highway Operation and Protection

Program (SHOPP) were authorized. At the same time, it is not clear how these maintenance, rehabilitation, and safety programs interfere with achievement of the state's climate goals. Even under a scenario where vehicles are zero-emission and significant majorities of Californians shift from single occupancy vehicles to biking, walking, and taking transit, Californians will still need highways, streets and roads, and bridges in a safe and well-maintained condition. And the shift to these alternative modes of transportation are still years away, necessitating ongoing maintenance of our existing infrastructure and creation of new roads, bridges, and highways to handle the state's current transportation needs."

ASSEMBLY FLOOR: 41-23, 5/25/22
AYES: Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Low, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Quirk, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Kiley, Lackey, Levine, Mathis, Mayes, Nguyen, Patterson, Salas, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Aguiar-Curry, Berman, Cervantes, Cooley, Cooper, Daly, Grayson, Maienschein, O'Donnell, Petrie-Norris, Quirk-Silva, Ramos, Blanca Rubio, Villapudua

Prepared by: Melissa White / TRANS. / (916) 651-4121
8/26/22 15:47:41

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

SENATE RULES COMMITTEE AB 2440
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2440
Author: Irwin (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-2, 6/22/22
AYES: Allen, Eggman, Gonzalez, Skinner, Stern
NOES: Bates, Dahle

SENATE JUDICIARY COMMITTEE: 9-1, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, McGuire, Stern, Wieckowski, Wiener
NOES: Jones
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 58-7, 5/23/22 - See last page for vote

SUBJECT: Responsible Battery Recycling Act of 2022

SOURCE: Californians Against Waste
California Product Stewardship Council
RethinkWaste

DIGEST: This bill establishes the Responsible Battery Recycling Act of 2022 (Act), which establishes a stewardship program for the collection and recycling of certain batteries, as defined.

Senate Floor Amendments of 8/25/22 update the definition of "covered battery" and clarify that producers of products are not responsible for loose batteries that

are a part of an existing stewardship organization; establish the definition of a "program operator" to be a producer, or a stewardship organization on behalf of a group of producers, that is responsible for implementing a stewardship program; update the definition of "producer"; clarify that the bill only applies to batteries sold in California; extend the timeline for the adoption of regulations and provides additional time for program operators to respond; strike the requirement that damaged, defective, or recalled batteries be collected by program operators; adjust the number of collection sites required in counties with a population smaller than 100,000 people; add a minimum recycling efficiency rate for rechargeable and primary batteries; provide anti-trust provisions; and makes numerous technical, clarifying, and non substantive changes.

ANALYSIS:

Existing law:

1) Establishes the Rechargeable Battery Recycling Act, which requires every retailer to have a system in place, on or before July 1, 2006, for the acceptance and collection of used rechargeable batteries for reuse, recycling, or proper disposal. (Public Resources Code (PRC) §§42451-42456)

2) Establishes the Electronic Waste Recycling Act to create a program for consumers to return, recycle, and ensure the safe and environmentally-sound disposal of "covered devices" (i.e., video display devices) that are hazardous wastes when discarded. (PRC §§42460 et seq.)

3) Establishes the Cell Phone Recycling Act, which requires all retailers of cellular phones to have a system in place for the collection, reuse, and recycling of cell phones and requires the Department of Toxic Substances Control (DTSC) to provide information on cell phone recycling. (PRC §§42490-42499)

4) Establishes the Hazardous Waste Control Law (HWCL) and requires DTSC to oversee the management of hazardous waste. (Health & Safety Code (HSC) §§25100 et seq.)

5) Establishes the Integrated Waste Management Act and requires the Department of Resources Recycling and Recovery (CalRecycle) to oversee the management of solid waste. (PRC §§40050 et seq.)

This bill:

1) Enacts the Responsible Battery Recycling Act of 2022, which would require producers, as defined, either individually or through the creation of one or more stewardship organizations, to establish a stewardship program for the collection and recycling of covered batteries, as defined.

2) Specifies that a "covered battery" includes any of the following:

    a) A loose battery that is either sold separately from a product or that is designed to be easily removed from the product with no more than common household tools.
    b) A battery that is packed with, but not installed in, the product that the battery is intended to power, when the product is offered for sale by the producer.

3) Provides that "covered battery" does not include, a medical device (as defined), a battery that has been recalled, a battery contained in a motor vehicle, a lead-acid battery (as defined), and certain rechargeable batteries.

4) Requires individual producers, no later than 180 days after the effective date of the Act, to provide CalRecycle a list of covered batteries and brands of covered batteries that the producer sells, distributes for sale, imports for sale, or offers for sale in or into the state and update the list annually thereafter.

5) Requires a program operator (i.e., a producer or a stewardship organization) to develop and submit to CalRecycle for review and approval as specified, a stewardship plan for the collection, transportation, and recycling of covered batteries, as prescribed.

6) Requires CalRecycle, in consultation with DTSC, to adopt regulations to implement the Act with an effective date no earlier than April 1, 2025.

7) Requires a program operator to have a complete stewardship plan approved by CalRecycle no later than 24 months after the effective date of the regulations adopted by CalRecycle and requires each producer be subject to an approved stewardship plan, in order to be in compliance with the Act.

8) Prohibits, on and after the date that a stewardship plan is approved by CalRecycle, a retailer, importer or distributor from selling, distributing,

offering for sale, or importing a covered battery in or into the state for sale in the state unless the producer of the covered battery is listed as in compliance with the Act, except as specified.

9) Requires a program operator to be audited annually, and submit a report and budget to CalRecycle, as prescribed, and requires a program operator to provide CalRecycle and DTSC with relevant records necessary to determine compliance with the Act.

10) Requires reports and records provided to CalRecycle be provided under penalty of perjury, thereby creating a state-mandated local program by expanding the crime of perjury.

11) Restricts public access to certain information collected for the purpose of administering a stewardship program.

12) Preempts all rules, regulations, codes, ordinances, or other laws adopted by a city, county, city and county, municipality, or a local agency on or after January 1, 2023, regarding stewardship programs for covered batteries.

13) Requires CalRecycle, within 24 months of the effective date of regulations, and each year thereafter, to post on its internet website a list of producers that are in compliance with the Act, including the reported brands and names of covered batteries of each producer.

14) Requires CalRecycle to remove from the list any producer, including its noncompliant brands and covered batteries, that is not in compliance with the Act.

15) Requires a program operator to reimburse CalRecycle and DTSC for their respective actual and reasonable regulatory costs that are directly related to implementing and enforcing the Act.

16) Requires CalRecycle and DTSC to deposit those moneys into the Covered Battery Recycling Fund, which the bill establishes, and authorizes CalRecycle and DTSC to expend those moneys, upon appropriation by the Legislature, to implement and enforce the Act.

17) Provides for enforcement of the Act, including authorizing CalRecycle to impose an administrative civil penalty on a program operator, stewardship organization, producer, manufacturer, distributor, retailer, importer, recycler, or collection site in violation of the Act not to exceed $10,000 per day, unless the violation is intentional, knowing, or reckless, then in that case not to exceed $50,000 per day.

18) Makes findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

19) Makes the Rechargeable Battery Recycling Act of 2006 and the Cell Phone Recycling Act of 2004 inoperative as of September 30, 2027, and would repeal those acts as of January 1, 2028.

Background

1) *Regulation of batteries*. The state's hazardous waste control law prohibits the disposal of batteries in the trash or household recycling collection bins intended to receive other non-hazardous waste and/or recyclable materials. Many types of batteries, regardless of size, exhibit hazardous characteristics and are considered hazardous waste when they are discarded. These include single use alkaline and lithium batteries and rechargeable lithium metal, nickel cadmium, and nickel metal hydride batteries of various sizes (AAA, AA, C, D, button cell, 9-Volt, and small sealed lead-acid batteries). These batteries, sold individually, would be "covered batteries" under AB 2440.

   If batteries end up in the trash or a recycling bin, owners/operators of solid waste transfer stations, municipal landfills, and recycling centers who discover batteries in the waste or recyclable materials are required to remove and manage the batteries separately. The facility that removes the batteries from the municipal solid waste stream or recyclable materials becomes the generator of the hazardous waste batteries and must comply with hazardous waste management regulations. Facilities that do not properly manage hazardous waste may be subject to regulatory enforcement and may be liable for monetary penalties.

2) *Battery fires*. Some batteries, particularly lithium ion, are extremely flammable and can combust or explode if they are damaged. When these batteries enter the waste stream, they are likely to be damaged during normal solid waste handling activities. When that happens, the batteries can ignite, causing fires

in solid waste vehicles and facilities and posing a risk to the health and safety of solid waste workers and the public. When a battery ignites in a solid waste facility, it is surrounded by flammable materials, allowing the fire to grow quickly. Even with advanced fire suppression equipment, fires shut down operations, impact workers and affect the air quality of nearby residents.

The increasing frequency of fires has also impacted solid waste operators' ability to find insurance. Insurance premiums and deductibles rise dramatically after a fire, if the facility can find insurance at all. At the San Carlos facility, insurance premiums increased from $180,000 per year to $1.5 million, and the facility's deductible rose exponentially, from $5,000 to $1.5 million. The costs associated with the fires caused by batteries are passed on to ratepayers.

3) *Product stewardship (stewardship)*. Product stewardship, also known as Extended Producer Responsibility (EPR), is a strategy to place a shared responsibility for end-of-life product management on the producers, and all entities involved in the product chain, instead of the general public. Product stewardship encourages product design changes that minimize the negative impact on human health and the environment at every stage of the product's lifecycle. This allows the costs of treatment and disposal to be incorporated into the total cost of a product. It places primary responsibility on the producer, or brand owner, who makes design and marketing decisions. It also creates a setting for markets to emerge that truly reflect the environmental impacts of a product, and to which producers and consumers respond. CalRecycle has developed a product stewardship framework and checklists to guide statutory proposals that would allow CalRecycle and other stakeholders to implement product stewardship programs.

4) *Successful collection of batteries remains out of reach*. Even though there are laws on the books to require the collection of some rechargeable batteries, recent information suggests that collection efforts are not succeeding. As a result, these hazardous waste batteries are ending up in the solid waste stream where they can be damaged or crushed, which can result in fires in solid waste trucks and solid waste facilities. The fact that current collection efforts are falling short does not seem to be disputed.

5) *This bill*. AB 2440 establishes a product stewardship program for loose batteries in order to improve the collection and recycling of these batteries and keep them out of the solid waste stream. Proper collection and management of batteries will reduce the number of fires at solid waste handling operations,

which will protect the health and safety of solid waste facility employees and the public and reduce air emissions associated with solid waste facility fires, and ensure that these collected batteries are managed in accordance with hazardous waste laws and regulations.

Comments

1) *Purpose of Bill.* According to the author, "Many Californians don't realize that all batteries are hazardous waste; and that throwing batteries, and products embedded with batteries, in curbside waste bins poses a threat to recycling facilities and human life. With more of our everyday items running off of batteries, it is imperative that we take swift action to stamp out the risk of devastating fires at our waste facilities and safely allow recovery of the valuable minerals inside batteries. AB 2440 will establish a comprehensive program to address this crisis and protect our communities from battery fires."

Related/Prior Legislation

SB 1215 (Newman, 2022) expands the definition of a "covered electronic device" in the existing electronic waste recycling program to include covered battery-embedded products. This bill is pending in the Assembly.

SB 289 (Newman, 2021) would have enacted the Battery and Battery-Embedded Product Recycling and Fire Risk Reduction Act of 2021, which would have required the producers of batteries and battery-embedded products to establish a stewardship program for those products, with full implementation on or before June 30, 2025. This bill was held on the suspense file in the Senate Appropriations Committee.

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

According to the Senate Appropriations Committee:

- Ongoing costs of up to approximately $2 million annually (Covered Battery Recycling Fund) for the Department of Resources, Recycling, and Recovery (CalRecycle) to establish a new extended producer responsibility program. These costs would be reimbursable from the stewardship organization.
- Unknown ongoing costs for the Department of Toxic Substances Control to consult with CalRecycle, review stewardship plans, and provide inspection and enforcement.

SUPPORT: (Verified 8/25/22)

Californians Against Waste (co-source)
California Product Stewardship Council (co-source)
RethinkWaste (co-source)
Active San Gabriel Valley
Alameda County Supervisor, Nate Miley
California Professional Firefighters
California Resource Recovery Association
California State Association of Counties
California Waste Haulers Council
Central Contra Costa Sanitary District
City of Alameda
City of Camarillo
City of Los Angeles
City of Roseville
City of Thousand Oaks
Clean Water Action
County of San Diego
CR&R, Inc.
Del Norte Solid Waste Management Authority
Delta Diablo
Environmental Working Group
League of California Cities
Los Angeles County Sanitation Districts
Los Angeles County Solid Waste Management Committee/integrated Waste Management Task Force
Marin Household Hazardous Waste Facility
Marin Sanitary Service
Monterey Regional Waste Management District
Napa Recycling & Waste Services
Northern California Recycling Association
Recology
Recyclesmart
Republic Services - Western Region
Republic Services Inc.
Resource Recovery Coalition of California
Rural County Representatives of California
San Francisco Department of the Environment
Santa Clara County Recycling and Waste Reduction Commission
Sea Hugger

South Bayside Waste Management Authority Dba Rethinkwaste
Stopwaste
Urban Counties of California
Western Placer Waste Management Authority
Zero Waste Company
Zero Waste Sonoma

OPPOSITION: (Verified 8/25/22)

Association of Home Appliance Manufacturers
California Retailers Association
Consumer Technology Association

ASSEMBLY FLOOR: 58-7, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Flora, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Megan Dahle, Davies, Fong, Lackey, Seyarto, Smith
NO VOTE RECORDED: Berman, Mia Bonta, Chen, Choi, Gallagher, Gray, Kiley, Nguyen, O'Donnell, Patterson, Blanca Rubio, Valladares, Voepel

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8/26/22 15:47:41

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THIRD READING

Bill No: AB 2442
Author: Robert Rivas (D), et al.
Amended: 8/11/22 in Senate
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 9-5, 6/14/22
AYES: Dodd, Allen, Becker, Bradford, Hertzberg, Hueso, Kamlager, Portantino, Roth
NOES: Nielsen, Borgeas, Jones, Melendez, Wilk
NO VOTE RECORDED: Glazer

SENATE GOVERNANCE & FIN. COMMITTEE: 4-1, 6/29/22
AYES: Caballero, Durazo, Hertzberg, Wiener
NOES: Nielsen

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 57-10, 5/25/22 - See last page for vote

SUBJECT: California Disaster Assistance Act: climate change

SOURCE: The Nature Conservancy

DIGEST: This bill adds "climate change" to the definition of the term "disaster," for the purposes of the California Disaster Assistance Act (CDAA); and, specifies that mitigation measures for climate change and disasters related to climate, may include, but are not limited to, measures that reduce emissions of greenhouse gases (GHGs) and investments in natural infrastructure, as specified.

Senate Floor Amendments of 8/11/22 replace the term "open space" with "natural and working lands," as specified, and add coauthors.

ANALYSIS:

Existing law:

1) Specifies that the CDAA requires the Director of the Office of Emergency Services (OES) to provide financial assistance to local agencies for their personnel costs, equipment costs, and the cost of supplies and materials used during disaster response activities, incurred as a result of a state of emergency proclaimed by the Governor, subject to certain criteria.

2) Requires the Director to authorize the replacement of a damaged or destroyed facility, whenever a local agency and the director determine that the general public and state interest will be better served by replacing a damaged or destroyed facility with a facility that will more adequately serve the present and future public needs than would be accomplished merely by repairing or restoring the damaged or destroyed facility.

3) Authorizes the Director to implement mitigation measures when the director determines that the measures are cost effective and substantially reduce the risk of future damage, hardship, loss, or suffering in any area where a state of emergency has been proclaimed by the Governor.

4) Defines "disaster" to mean a fire, flood, storm, tidal wave, earthquake, terrorism, epidemic, or other similar public calamity that the Governor determines presents a threat to public safety.

5) Defines "natural infrastructure" to mean using natural ecological systems or processes to reduce vulnerability to climate change related hazards, or other related climate change effects, while increasing the long term adaptive capacity of coastal and inland areas by perpetuating or restoring ecosystem services, as specified.

6) Defines "working landscapes" to include farms, ranges, and forest lands; and, "natural lands" to include wetlands, watersheds, wildlife habitats, and other wildlands.

This bill:

1) Expands, for the purposes of the CDAA, the definition of "disaster" to include "climate change."

2) Provides that, for climate change and disasters related to climate, mitigation measures may include, but are not limited to, measures that reduce emissions of

GHGs and investments in natural infrastructure, as defined, including, but not limited to, the preservation of natural and working lands, as specified, improved forest management, and wildfire risk reduction measures.

Background

Purpose of this bill. According to the author's office, "current law is inconsistent as to whether climate change is a hazard in and of itself, or whether it is merely a 'hazard modifier' that increases the risks associated with existing hazards like storms or floods. Assembly Bill 2442 will clarify that climate change is itself a hazard as well as a hazard modifier, which will enable better integration of climate mitigation and adaptation planning at the state and local levels as well as open up new sources of state and federal funding for climate resilience."

California Emergency Services Act. The California Emergency Services Act (ESA) grants the Governor the authority to proclaim a state of emergency in an area affected or likely to be affected when: a) conditions of disaster or extreme peril exist; b) the Governor is requested to do so upon request from a designated local government official; or c) the Governor finds that local authority is inadequate to cope with the emergency. Local governments may also issue local emergency proclamations, which is a prerequisite for requesting the Governor's Proclamation of a State of Emergency.

The ESA grants the Governor certain special powers during a declared state of emergency, which are in addition to any other existing powers otherwise granted. For example, the ESA empowers the Governor to expend any appropriation for support of the ESA in order to carry out its provisions, as well as the authority to make, amend, and rescind orders and regulations necessary to carry out the ESA. The orders and regulations shall have the force and effect of law.

Additionally, the ESA authorizes the director of OES, when the director determines there are mitigation measures that are cost effective and that substantially reduce the risk of future damage, hardship, loss, or suffering in any area where a state of emergency has been proclaimed by the Governor, to authorize the implementation of those mitigation measures. This bill, for climate change and disasters related to climate, provides that mitigation measures may include, but are not limited to, measures that reduce emissions of GHGs and investments in natural infrastructure, including, but not limited to, the preservation of natural and working lands, improved forest management, and wildfire risk reduction measures, as specified.

Local Government General Plans. Every county and city must adopt a general plan with seven mandatory elements: land use, circulation, housing, conservation, open space, noise, and safety. Except for the housing elements, state law does not require counties and cities to regularly revise their general plans. Most cities' and counties' major land use decisions—subdivisions, zoning, public works projects, use permits—must be consistent with their general plans. Development decisions must carry out and not obstruct a general plan's policies.

The Planning and Zoning Law says that the safety element's purpose is to protect the community from unreasonable risks from geologic hazards, flooding, and wildland and urban fires. In 2007, the Legislature expanded the safety elements' contents for flood hazards AB 162 (Wolk, Chapter 369, Statutes of 2007). Similarly, in 2012, the Legislature expanded the safety elements' contents for fire risks on land classified as state responsibility areas and very high fire hazard severity zones SB 1241 (Kehoe, Chapter 311, Statutes of 2012). These bills required safety elements to contain:

- Specified information about flood hazards and fire hazards.
- Based on that information, a set of comprehensive goals, policies, and objectives to protect against unreasonable flood risks and fire risks.
- To carry out those goals, a set of feasible implementation measures.

In recent years, local officials have started to focus more attention on the risks posed to communities throughout California by the potential effects of global climate change, including increased temperatures, sea level rise, a reduced winter snowpack, altered precipitation patterns, and more frequent storm events. Many local governments have adopted a local hazard mitigation plan (LHMP) to identify all of the natural hazards that threaten a community and strategies to mitigate those hazards. The Federal Emergency Management Agency (FEMA) reviews and approves every LHMP, and the LHMP expires five years after it's approved, unless amended and recertified.

Seeking to ensure that cities and counties consider risks associated with climate change, the Legislature passed SB 379 (Jackson, Chapter 608, Statutes of 2015), which requires cities and counties to review and update their general plans' safety elements to address climate adaptation and resiliency. SB 379 required the safety element to contain specified information on climate adaptation and resiliency strategies applicable to that city or county, including:

- A vulnerability assessment that identifies the risks that climate change poses to the local jurisdiction and the geographic areas at-risk from climate change impacts, including existing and planned development in identified at-risk areas.

- A set of adaptation and resilience goals, policies, and objectives for the protection of the community based on the identified climate risks.

- A set of feasible implementation measures designed to carry out those goals, policies, and objectives.

Under SB 379, cities and counties must revise their safety elements to include this information upon the next update of a city or county's LHMP after January 1, 2017, or by January 1, 2022, if the city or county has not adopted a LHMP. If the city or county has adopted a LHMP or other planning document that meets those requirements, a city or county can incorporate the LHMP or other plan by reference in the general plan instead of revising the safety element.

Cities and counties must also review and revise the information in their safety element along with each update of the housing element or LHMP, but no less than once every eight years, to identify new information relating to flood and fire hazards and climate adaptation and resiliency strategies applicable to the city or county that was not available during the previous revision of the safety element.

Natural Infrastructure. The state has various programs to ensure that California is adapting appropriately to the changing climate. The California Natural Resources Agency develops and regularly updates the "Safeguarding California Plan," which lays out the steps that all state agencies are taking to protect California's communities, infrastructure, services, and environment from climate change. The Safeguarding California Plan was last updated in 2018. Consistent with the plan, state agencies must promote the use of the plan to inform planning decisions and ensure that state investments consider climate change impacts, as well as promote the use of natural systems and natural infrastructure, when developing physical infrastructure to address adaptation.

As noted above, local agencies must also, where feasible, identify natural infrastructure that can be used in adaptation projects. They must also use existing or restored natural features and ecosystem processes where feasible. Natural infrastructure is defined to mean using natural ecological systems or processes to reduce vulnerability to climate change related hazards, or other related climate change effects, while increasing the long-term adaptive capacity of coastal and inland areas by perpetuating or restoring ecosystem services. This includes, but is not limited to, the conservation, preservation, or sustainable management of any

form of aquatic or terrestrial vegetated open space, such as beaches, dunes, tidal marshes, reefs, seagrass, parks, rain gardens, and urban tree canopies. It also includes systems and practices that use or mimic natural processes, such as permeable pavements, bioswales, and other engineered systems, such as levees that are combined with restored natural systems, to provide clean water, conserve ecosystem values and functions, and provide a wide array of benefits to people and wildlife.

California Disaster Assistance Act. The CDAA authorizes the Director of OES to administer a disaster assistance program that provides financial assistance from the state for costs incurred by local governments as a result of a disaster event. Funding for the repair, restoration, or replacement of public real property damaged or destroyed by a disaster is made available when the director concurs with a local emergency proclamation requesting state disaster assistance. Currently "disaster" is defined to include a fire, flood, storm, tidal wave, earthquake, terrorism, epidemic, or other similar public calamity that the Governor determines presents a threat to public safety.

When there is a federal declaration, FEMA pays 75%, and the state may pay up to 75% of the remaining 25% of eligible costs for any state-declared emergency (18.75%of the total). For some statutorily specified disasters, the state may pay up to 100% of the non-federal eligible disaster mitigation costs. Existing law prohibits the state share for any eligible project from exceeding 75% of state eligible costs unless the local agency has adopted a local hazard mitigation plan as part of the safety element of its general plan.

AB 2442 expands the definition of "disaster," for the purposes of the CDAA, to include "climate change."

Related/Prior Legislation

SB 558 (Caballero, 2021-22) establishes the Farmworker Disaster Relief Planning Task Force in OES, as specified. (Held on the Assembly Appropriations Committee Suspense File)

SB 462 (Borgeas, 2021) would have required the state share be up to 100% of total state eligible costs associated with the Creek Fire that started on September 4, 2020, in the Counties of Fresno and Madera. (Held on the Senate Appropriations Committee Suspense File)

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

SUPPORT: (Verified 8/14/22)

The Nature Conservancy (source)
California Native Plant Society
CivicWell
Defenders of Wildlife

OPPOSITION: (Verified 8/14/22)

Western States Petroleum Association

ARGUMENTS IN SUPPORT: In support of this bill, The Nature Conservancy writes that, "AB 2442 will clarify that climate change is itself a hazard as well as a hazard modifier, which will enable better integration of climate mitigation and adaptation planning at the state and local levels. The lack of clarity in current law has caused confusion among state and local government officials tasked with hazard mitigation planning. For example, several counties (including San Francisco and Santa Cruz) have identified climate change as a standalone hazard in their most recent Local Hazard Mitigation Plans, while the rest treat it as a hazard modifier. The result is inconsistent approaches to climate mitigation and adaptation planning across the state, which can lead to state and local government agencies missing opportunities to integrate climate mitigation and adaptation planning, maximize benefits, and access new funding sources to fund climate resiliency."

ARGUMENTS IN OPPOSITION: In opposition to this bill, the Western States Petroleum Association writes that, "AB 2442 seems to try to drive clarity and consistency within local jurisdictional hazard mitigation plans with regards to how they address disasters that may be exacerbated by climate change. By including 'climate change' in the definition of 'disaster,' it is likely to achieve the opposite effect due to the fact that all other examples used in the definition of 'disaster' are specific events in time for which a governor could declare a disaster after the event occurs. This definition includes fire, floods, storms, tidal waves, earthquakes, terrorism, and epidemics. In order to drive consistency with the current definition of disaster under the CDAA, AB 2442 would be better served by including additional types of events which can be exacerbated by climate change to be more inclusive of the types of disasters a local jurisdiction should be preparing for. This could include examples such as extreme heat and/or cold events, droughts, etc. This change would provide significantly more direction to local jurisdictions that are designing measures in hazard mitigation plans because it would allow them to address specific disasters."

ASSEMBLY FLOOR: 57-10, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Megan Dahle, Fong, Gallagher, Kiley, Lackey, Patterson, Seyarto, Smith, Voepel
NO VOTE RECORDED: Berman, Chen, Choi, Cooley, Cunningham, Davies, Flora, Mathis, Nguyen, O'Donnell, Valladares

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8/15/22 12:58:22

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

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THIRD READING

Bill No: AB 2443
Author: Cooley (D)
Amended: 8/24/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 6/29/22
AYES: Cortese, Ochoa Bogh, Durazo, Newman, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 61-0, 5/5/22 (Consent) - See last page for vote

SUBJECT: Judges' Retirement System II: benefits

SOURCE: California Judges Association

DIGEST: This bill authorizes Judges' Retirement System II members to elect to retire at an earlier age or with fewer years of service than the plan's "full retirement age" factors if they defer receipt of their retirement allowance (1) until they meet full retirement age, whereupon their 3.75 benefit factor would be reduced as specified; or (2) they defer beyond the time they meet the full retirement age, as specified, whereupon they would receive their 3.75 benefit factor.

Senate Floor Amendments of 8/24/22 delete provisions related to IRC aggregation limit testing and the JRS II early retirement allowance option; and make clarifying and conforming amendments to the bill's remaining two JRS II deferred retirement options related to post-retirement health care coverage and survivor allowances.

ANALYSIS:

Existing law:

1) Provides that the CalPERS Board of Administration also serves as the board of administration for the Legislators' Retirement System (LRS), the Judges'

Retirement System (JRS I) I, and the Judges' Retirement System II System (JRS II). (GC § 9350.3, § 75005, and § 75502 (h))

2) Establishes JRS II to provide a defined benefit retirement plan for judges first elected or appointed to the bench *on or after* November 9, 1994. JRS II requires that a judge be at least 65 years of age with at least 20 years of service, or 70 years of age with at least five years of service to qualify for a JRS II defined benefit (DB) service retirement allowance equal to 3.75 percent of final compensation, multiplied by the number of years of service, up to a maximum of 75 percent of final compensation. A judge eligible for a DB monthly allowance may opt to receive the alternative lump sum benefit under the Monetary Credit Plan in lieu of the DB monthly allowance. (GC 75500 et seq.)

3) Authorizes the Monetary Credit Plan, an alternative JRS II benefit for judges who leave office prior to qualifying for a DB retirement allowance but after accruing five or more years of service. Under the plan, a judge receives a lump sum equal to the amount of his or her monetary credits plus an amount credited at the JRS II net earnings rate from the preceding year. Monetary credits are the judge's accumulation of contributions equal to 18 percent of the judge's monthly salary. (GC 75520, 75521)

4) Provides that a judge who leaves office before accruing at least five years of service shall receive only a lump sum equal to the amount of his or her contributions to JRS II. (GC 75521(a)).

This bill:

Deferred Allowance Retirement Election (DARE)

1) Authorizes judges, on and after January 1, 2024, who are not eligible to retire under the existing JRS II plan to make an election to retire at an earlier age or with fewer years of service than the plan's currently required full retirement age and service factors if they are at least 60 years of age and have 15 years or more of service, or 65 years of age with a minimum of 10 years of service as follows:

    - Deferred Allowance Retirement Election 1 (DARE 1) authorizes a judge to retire prior to full retirement age and receive a retirement allowance when the judge reaches full retirement age with a reduction to the full retirement benefit factor of 3.75 percent. The reduction would equal .07 percent for each year before full retirement age the judge retired.

- Deferred Allowance Retirement Election 2 (DARE 2) authorizes a judge to retire prior to full retirement age and still receive the full retirement benefit factor of 3.75 percent but requires the judge to wait an additional time beyond full retirement age to receive the retirement allowance. The additional time required is .22 years for each year prior to full retirement age the judge retired.

2) Requires CalPERS to treat a DARE retirement like a normal service retirement for the purposes of the code's restrictions on postretirement work and for the exception to reinstating that allows retired judges to continue to work in courthouses through the Judicial Council's Temporary Assigned Judges Program.

3) Makes the office of a judge who takes a DARE retirement vacant on the date of the judge's retirement.

4) Requires a judge who elects to take a DARE retirement to elect, within 30 days after the effective date of the retirement, DARE 1 or DARE 2. Under rules adopted by the board, the time for the election may be extended in cases of illness or other hardship, but once made, the election shall be final and irrevocable.

5) Deems a judge who takes a DARE but fails or refuses to make an election between DARE 1 and DARE 2 within the time allowed, to have elected DARE 1, the option that begins the allowance upon reaching full retirement age but reduces the 3.75% benefit factor by .07 % for each year the judge deferred prior to full retirement age.

6) Defines "full retirement age" for purposes of the DARE options to mean the age and years of service at which a judge would have become eligible to retire under the current plan's requirements if the judge had continued to accrue years of service credit rather than retire pursuant to the DARE options.

7) Prohibits a DARE retirement allowance from exceeding 75 percent of the judge's final compensation.

8) Prohibits the calculation of DARE retirement allowance from including more than 20 years of service.

9) Sets a sunset date of January 1, 2029, for the DARE options and provides for the restoration of existing law upon the sunset date.

Health Benefit Plan Provisions

10) Authorizes a judge who elects one of the DARE options to continue receiving health care coverage for themselves and their family members, as specified, provided the judge assumes payment of all contributions, including those provided by the employer, and pays an additional 2 % of the premium amount for reasonable administrative expenses incurred by CalPERS or CalHR.

11) Provides that when the judge begins receiving their DARE retirement allowance they become a plan annuitant and thereupon become eligible to receive the employer's contribution toward the premium to continue their health coverage enrollment, enroll in a health benefit plan within 60 days, or enroll in a health benefit plan during future open enrollment periods, as specified.

12) Provides that the surviving spouse of a deceased judge who retired under a DARE option but had not begun receiving their allowance before their death may continue receiving health care coverage for themselves and their family members, as specified, provided the surviving spouse assumes payment of all contributions, including those provided by the employer and pays an additional 2 % of the premium amount for reasonable administrative expenses incurred by CalPERS or CalHR.

13) Provides that when the surviving spouse begins receiving their retirement allowance they become a plan annuitant and thereupon become eligible to receive the employer's contribution toward the premium to continue their health coverage enrollment, enroll in a health benefit plan within 60 days, or enroll in a health benefit plan during future open enrollment periods, as specified.

14) Provides that the bill's DARE option continuing health benefit plan provisions become operative January 1, 2024, and sunset January 1, 2029, whereupon the bill provides for the restoration of existing law upon the sunset date.

Survivor Allowances

15) Provides that a surviving spouse of a judge who was not eligible to retire under the full retirement age formula but was eligible to retire under a DARE option shall, within 90 days after the judge's death, elect to receive either of the following:

- A monthly retirement allowance equal to one-half of the judge's benefit factor computed as specified under DARE 1 as of the date of death,

multiplied by the judge's final compensation multiplied by the number of years of service credit. CalPERS shall adjust this allowance for changes in the cost of living as specified.

- The judge's lump sum monetary credits, as specified.

16) Changes the amount that a surviving spouse of a judge who was eligible to retire under the full retirement age formula and who *retired for disability* receives. Current law provided the surviving spouse 50 percent of the deceased judge's *last monthly retirement* allowance. This bill would provide the surviving spouse 50 percent of the judge's last *unmodified* allowance.

17) Provides that a surviving spouse of a retired judge who was receiving a retirement allowance under a DARE option shall receive a monthly allowance equal to 50 percent of the deceased judge's unmodified monthly retirement allowance, which CalPERS shall adjust for changes in the cost of living as specified.

18) Provides that a surviving spouse of a judge who elected to retire and receive a retirement allowance under a DARE option, but who died before receiving the retirement allowance, shall receive a monthly allowance equal to 50 percent of the unmodified monthly retirement allowance the deceased judge would have received under the DARE option had the judge been living and receiving the retirement allowance, beginning the date the judge would have been eligible to receive the benefits. CalPERS shall adjust this allowance for changes in the cost of living as specified.

19) Clarifies that a monthly allowance payable to a surviving spouse is payable commencing upon the death of the judge and continuing until the death of the surviving spouse except where a judge died before receiving an allowance under a DARE option. In that event, the surviving spouse's allowance will commence when the judge would have begun receiving an allowance had he lived.

20) Provides that the bill's DARE survivor allowance provisions become operative January 1, 2024, and sunset January 1, 2029, whereupon the bill provides for the restoration of existing law upon the sunset date.

Background

JRS II Early or Deferred Retirement Option

The existing JRS II plan requires a judge to remain on the bench until the judge obtains the mandatory minimum age and service (age 65 with 20 or more years of service or age 70 with less than 20 but at least 5 years of service) to receive a monthly pension allowance and the associated post-retirement health care benefit. The system, known colloquially as "cliff vesting", means a member who does not meet vesting requirements receives no pension allowance nor post- retirement health care benefits but rather receives the alternative, lump sum Monetary Credit benefit based on the member's contributions and a defined interest rate.

The author contends that the benefit design causes many judges facing job burnout or a serious family or health crisis in their later years to remain on the bench when not emotionally or physically able to do the work, lest they lose their DB retirement allowance, their post-retirement health benefits, and the derivative benefits that would flow to their survivors or beneficiaries upon the judge's death.

This bill would allow JRS II members to choose to retire and defer receipt of their retirement allowance pursuant to the DARE options, as specified, so that they could retire at an earlier age or with fewer years of service than required by existing law without losing their right to eventually receive a monthly retirement allowance along with the associated health care and survivor allowance benefits.

Interaction with Post-Retirement Rules/ Opportunities

Under existing law, retired judges are exempt from Public Employees' Pension Reform Act post-retirement employment limitations. Retired judges may apply to the Judicial Council's Temporary Assigned Judges Program and upon approval of the Chief Justice work as assigned judges in the state's courts, as needed and requested by presiding judges. Under the program, retired judges are not required to reinstate and may receive their retirement allowance plus a statutory specified rate of pay for their service approximating 92% of the court's pay for its judge of record. This program would be available to judges who retired under this bill's DARE options.

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

According to the Senate Appropriations Committee analysis of the prior version:

- CalPERS would incur minor and absorbable costs to revise the application of IRC Section 415 benefit limits for impacted members. According to CalPERS,

any benefit costs resulting from the bill are already accounted through existing contributions; consequently, there is no projected change in the state's contribution rate for PERS, LRS, JRS or JRS II.

- CalPERS anticipates one-time administrative costs to implement three additional retirement benefit frameworks for the JRS II plan. The magnitude would be in the low millions of dollars (special fund). Cost drivers would include system changes to process and administer the new benefit frameworks, staff training, publication revisions, and member education and outreach. Ongoing costs would be minor or absorbable.

SUPPORT: (Verified 8/25/22)

California Judges Association (source)

OPPOSITION: (Verified 8/25/22)

None received

ARGUMENTS IN SUPPORT: According to the author:

"AB 2443 allows judges that are currently ineligible to retire at 60 years of age with 15 years or more of service, or 65 years of age with a minimum of 10 years of service, by electing for an alternative specified monthly allowance."

"The bill will base the retirement allowance on the judge's final compensation and years of service credit adjusted by certain percentages that vary in relation to full retirement age and specifies that the allowance not exceed 75% of a judge's final compensation. Thus, providing new options that do not constitute an enhanced benefit, but provide additional flexibility."

ASSEMBLY FLOOR: 61-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Ward, Akilah Weber, Wilson, Wood, Rendon

NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Friedman, Gallagher, Cristina Garcia, Gipson, Levine, McCarty, Medina, Villapudua, Waldron, Wicks

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
8/26/22 15:47:42

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

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THIRD READING

Bill No: AB 2448
Author: Ting (D), et al.
Amended: 8/24/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 6/21/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, McGuire, Stern, Wiener

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 6/29/22
AYES: Cortese, Ochoa Bogh, Durazo, Newman, Wiener

SENATE APPROPRIATIONS COMMITTEE: 6-0, 8/11/22
AYES: Portantino, Bradford, Jones, Laird, McGuire, Wieckowski
NO VOTE RECORDED: Bates

ASSEMBLY FLOOR: 68-0, 5/25/22 - See last page for vote

SUBJECT: Civil rights: businesses: discrimination and harassment of customers: pilot program

SOURCE: Stop AAPI Hate

DIGEST: This bill directs the California Civil Rights Department (CRD, formerly known as the Department of Fair Employment and Housing or DFEH) to establish a pilot program that recognizes businesses for creating safe and welcoming environments free from discrimination and harassment of customers.

Senate Floor Amendments of 8/24/22 clarify that certification under the pilot program does not shield a business establishment against liability for civil rights violations and may not be used as evidence in court to defend against an allegation of violating civil rights laws.

ANALYSIS:

Existing law:

1) Prohibits, pursuant to the Unruh Civil Rights Act, all business establishments of any kind whatsoever from discriminating against customers on the basis of the actual or perceived sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation, and on any other arbitrary basis. (Civ. Code § 51(b), (g); *In re Cox* (1970) 3 Cal.3d 205, 216.)

2) Establishes the CRD to combat discrimination in housing and employment. Specifies that the CRD has the power to receive, investigate, conciliate, mediate, and prosecute complaints alleging practices made unlawful by, among other things, the Unruh Civil Rights Act. (Gov. Code §§ 12900-12930.)

This bill:

1) Directs CRD to establish a pilot program that recognizes businesses for creating safe and welcoming environments free from discrimination and harassment of customers, and to establish criteria that a business must meet in order to qualify for recognition under the program, including, but not limited to:

    a) compliance with consumer civil rights laws;
    b) offering additional training to educate and inform employees or build skills;
    c) informing the public of their rights to be free from discrimination and harassment and how to report violations;
    d) outlining a code of conduct for the public that encourages respectful and civil behavior; and
    e) any other actions designed to prevent and respond to discrimination and harassment regardless of the identity of the perpetrator.

2) Instructs the CRD to provide a certificate to qualifying businesses that may be prominently displayed on site and publish on its internet website a database of businesses receiving that certificate.

3) Specifies that receipt of a certificate under the pilot program does not establish and is not relevant to any defense against claims brought under existing law.

4) Directs CRD, on or before January 1, 2028, to evaluate whether that recognition is effective, including, at a minimum, whether it affects customer behavior,

incentivizes compliance among businesses with consumer civil rights protections or reduces the incidence of discrimination and harassment at businesses.

5) Sunsets on July 1, 2028.

Comments

Evidence of the problem the bill is intended to address

Disturbingly, there is ample evidence of a large increase in hate-motivated harassment and violence over the past several years. The data suggests that a significant part of this harassment and violence takes place at business establishments. The author points to the following reports, among other sources, as evidence of the need for this bill:

- The sponsor of this bill reports receiving nearly 11,000 reports of hate incidents nationwide since March 2020, including over 4,100 reports from California. The vast majority of what has been reported does not meet the definition of a hate crime. Two-thirds of the reports include verbal harassment.[1]
- In California, over a quarter of the hate incidents reported to the sponsor of this bill took place at a business. A majority of these incidents took place in service or retail establishments, such as grocery stores, restaurants, big box retailers, and their parking lots. In the majority of cases, customers reported being verbally harassed by another customer or passerby.[2]
- A late 2021 survey of AAPI individuals in Los Angeles, found that half of respondents experienced racial discrimination, with 40 percent reporting racial discrimination in a grocery store.[3]
- More than a third of Black Americans surveyed in 2021 responded that they personally were treated unfairly while shopping during the last 30 days, representing about a 10 percent increase beyond previously reported levels.[4]

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[1] Yellow Horse *et al*. *Stop AAPI Hate National Report* (3/19/20-12/31/21) **https://stopaapihate.org/wp-content/uploads/2022/03/22-SAH-NationalReport-3.1.22-v9.pdf** (as of Jun. 11, 2022) at p. 1.
[2] *California State Policy Recommendations to Address AAPI Hate: A Starting Point for Taking Action Stop AAPI Hate* (October 13, 2021) Stop AAPI Hate **https://stopaapihate.org/wp-content/uploads/2022/01/SAH-State-Policy-Agenda-10.13.21-w_urls-2.pdf** (as of June 11, 2022) at p. 2.
[3] Chan. #*VoicesofLA AAPI Survey Results* (March 15, 2022) Pat Brown Institute for Public Affairs and California Community Foundation **https://calstatela.patbrowninstitute.org/wp-content/uploads/2022/03/AAPI-Survey-Slides-Released-March-15-2022.pdf** (as of June 11, 2022) at slide 14.

Certificate program for good actors

This bill establishes a new certification program within CRD. Under this program, CRD would give recognition to businesses that adopt policies and practices designed to create safe and welcoming environments free from discrimination and harassment of customers. CRD would be tasked with developing the details of the certification program, but the bill explains that it would include elements like offering employees additional training, informing the public of their civil rights in relation to the business, and outlining a code of conduct for patrons of the business that encourages respectful and civil behavior.

The purpose of the certificate is, of course, to operate as a carrot: businesses receiving the certificate could display it as a point of pride and a way of gaining favor with customers.

As the state's promoter of civil rights, CRD makes sense as the agency to carry out this certification program. On the other hand, because CRD's role includes prosecuting civil rights violations, it may still be wise to include a provision in the bill underscoring that receipt of a certificate from CRD under the program would not provide the business with any particular immunity or defense against an enforcement action by CRD.

Related legal duties of businesses

Business establishments in California have certain legal duties in relation to discrimination and harassment. In relation to their customers, the Unruh Civil Rights Act prohibits businesses from discriminating against their customers for arbitrary reasons including race, ethnicity, national origin, gender, and sexual orientation, among other things. (Civ. Code § 51.) In relation to their employees, the Fair Employment and Housing Act prohibits businesses from discriminating on account of a similar set of characteristics. (Gov. Code § 12940.)

In the context of employment discrimination, the law treats harassment as a form of discrimination when the harassment is based on the target's protected characteristics, when the harassing behavior is offensive or unwelcome to the target, and when the harassment reaches the point of becoming so severe or pervasive that a reasonable person would find that it creates a hostile environment. (*Meritor Savings Bank v. Vinson* (1986) 477 U.S. 57; *Aguilar v. Avis Rent A Car System, Inc*. (1999) 21 Cal.4th 121.) Employment discrimination law applicable in

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[4] Jones and Lloyed. *Black Americans' Reports of Mistreatment Steady or Higher* (July 27, 2021) Gallup **https://news.gallup.com/poll/352580/black-americans-reports-mistreatment-steady-higher.aspx** (as of Jun. 11, 2022).

California also specifies that a business' legal duty to protect its employees against discriminatory harassment extends to situations in which the source of the harassment is a third party, at least to the degree to which the employer has control or legal responsibility over the third party. (Gov. Code § 12940(j)(1).)

The employment discrimination law just described is firmly established. In contrast, it is less clear what legal duty, if any, a business has to prevent discriminatory harassment of a customer by a third party on the business premises. Courts might well draw an analogy to the housing and employment discrimination contexts and conclude that the law imposes some duty on businesses to take action to prevent a customer from having to endure discriminatory harassment at the hands of a third party, at least where the harassment is sufficiently severe or pervasive that a reasonable customer would perceive it as hostile and offensive and where the business has at least some control over the customer. However, there do not appear to be any decisions that have yet addressed the issue directly.

Even if the courts held that businesses have a legal duty to prevent discriminatory harassment by third parties, only severe and persistent behavior would be actionable. There would still be no legal recourse for the many incidents that the courts would not consider severe or pervasive enough to constitute discriminatory harassment in the legal sense, but that nonetheless operate to marginalize and oppress their targets in a way that should not be acceptable in a society that values equality and inclusion. The certificate program proposed by this bill incentivizes businesses to take proactive steps to prevent such incidents.

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

According to the Senate Appropriations Committee, costs in the high tens of thousands through 2027-2028 to CRD to establish a pilot program to recognize businesses for their activities aimed at reducing customer-on-customer harassment in the marketplace.

SUPPORT: (Verified 8/24/22)

Stop AAPI Hate (source)
AAPI Equity Alliance
Anti-Defamation League
Apex Express
Asian Americans in Action
Asian Pacific Islander Forward Movement
Asian Youth Center
California Association of Human Relations Organizations

California Healthy Nail Salon Collaborative
Cambodia Town Inc.
Center for Asian Americans in Action
Center for the Pacific Asian Family
Chinatown Service Center
Chinese for Affirmative Action
Empowering Pacific Islander Communities
Equal Justice Society
Hmong Innovating Politics
Khmer Girls in Action
Korean American Coalition
Korean American Family Services
La Raza Community Resource Center
Little Tokyo Service Center
Linda Ly's Private Practice
Los Angeles County Board of Supervisors
National Asian Pacific American Families Against Substance Abuse
North East Medical Services
Orange County Asian and Pacific Islander Community Alliance
Pacific Asian Counseling Services
Saahas for Cause
Self-Help for the Elderly
South Asian Network
Southeast Asia Resource Action Center
Southeast Asian Community Center
Thai Community Development Center

OPPOSITION: (Verified 8/24/22)

None received

ARGUMENTS IN SUPPORT: According to the author, "California has seen a rise in hate against Asian Americans and Pacific Islanders (AAPI) during the COVID-19 pandemic, from brutal attacks against elderly Asian Americans to the ongoing verbal harassment of AAPI women. Many AAPIs continue to fear being in public spaces, and many hate incidents occur at retailers and other businesses. More needs to be done to ensure that individuals can go into the public without fearing for their safety or that they will be discriminated against."

As sponsor of this bill, Stop AAPI Hate writes, "This bill will promote the safety and well-being of customers at businesses by […] recognizing businesses that

foster safe and welcoming environments. AAPIs are not alone in experiencing this harassment and discrimination. Black customers have long reported unfair treatment while shopping, according to more than two decades of Gallup polling. Black, Asian, and Hispanic adults have reported heightened racialized harassment during the pandemic at rates higher than white adults."

ASSEMBLY FLOOR: 68-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Bigelow, Megan Dahle, Gallagher, Kiley, Lackey, O'Donnell, Seyarto, Smith, Valladares

Prepared by: Timothy Griffiths / JUD. / (916) 651-4113
8/26/22 15:47:43

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

SENATE RULES COMMITTEE
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THIRD READING

Bill No: AB 2459
Author: Cervantes (D)
Amended: 8/11/22 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 6/30/22
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, McGuire, Pan

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 75-0, 5/26/22 - See last page for vote

SUBJECT: Postsecondary education: student housing: data collection

SOURCE: Author

DIGEST: This bill requires the office of the Chancellor of the California State University (CSU) and the Office of the Chancellor of the California Community Colleges (CCC), and requests the Office of the President of the University of California (UC), to require each campus that provides student housing to post on its external and internal Internet websites specified information about the campus housing stock, the number of students requesting housing, and how many students are on waitlists.

ANALYSIS:

Existing law:

1) Requires the CSU, and request the UC, to conduct a needs assessment to determine the projected student housing needs, by campus, from the 2022–23 fiscal year (FY) to the 2026–27 FY and create a student housing plan, with a focus on affordable student housing. (Education Code § 66220)

2) Establishes basic needs centers and basic needs coordinators on CCC campuses by July 1, 2022, to support students in finding resources to alleviate their basic needs including food and housing insecurities, and requires CCC campuses to report data to the office of the CCC Chancellor's Office on basic needs services and the number of students who are served. Existing law requires this report to be made available to the Legislature annually beginning on May 1, 2023. (EC § 66023.5)

3) Requires each campus of the CSU, and requests each campus of the UC, to post on its website annually by February 1, information about the market cost of a one-bedroom apartment in the areas surrounding that campus where its students commonly reside. Existing law requires campuses to exercise due diligence and to consult bona fide and reliable sources of current information about local housing market costs, as specified. Existing law requires that the information be posted in the same location on the campus website where the housing cost estimates for off-campus students are posted. (EC § 66014.2)

4) Requires, the United States Secretary of Education to make publicly available on the College Navigator website specified information about each institution of higher education that participates in federal financial aid programs, which includes, among many other things, the cost of attendance for first-time, full-time undergraduate students who live on campus and for those who live off-campus. (United States Code, Title 20, § 1015a)

This bill:

1) Requires the Office of the Chancellor of the CSU and the Office of the Chancellor of the CCC, and requests the Office of the President of the UC, to require each campus that provides campus-owned, campus-operated, or campus- affiliated student housing to post on its external and internal internet websites, at least twice each academic year, all of the following information:

   a) The number of enrolled students.

   b) Existing campus housing stock, including, but not limited to, the number of available beds on campus.

   c) The number of students on the campus housing waiting list, and how many students have removed themselves from the waiting list since the last report.

d) If available, the number of students who request campus-owned, campus-operated, or campus- affiliated student housing once they are no longer eligible for guaranteed housing.

e) If available, the number of incoming freshmen, transfer students, and international students requiring campus-owned, campus-operated, or campus- affiliated student housing.

2) Requires this data to be collected by the on-campus department or center that is tasked with providing on-campus and off-campus housing assistance to students.

3) Requires the Office of the Chancellor of the CSU and the Office of the Chancellor of the CCC, and requests the Office of the President of the UC, to submit an annual report with the information described in 1) above (each segment submits one report compiled of all campus-level data) to the Legislature, with the first report being due by October 15, 2023.

Comments

Need for this bill. According to the author, "The State has generally regarded meeting student housing needs as the responsibility of higher education institutions. However, since campuses do not routinely provide data on campus occupancy rates and waitlists for student housing, we are unaware of whether our public institutions of higher learning are meeting those housing needs. By providing information on the number of available beds and the number of students on housing waitlists at each campus, AB 2459 will allow the Legislature to exercise proper oversight and accurately assess student housing needs. It will also provide students, particularly under-resourced students, with more complete and accurate information to make housing decisions at their campuses."

What do we know about student housing needs? According to the 2021 Public Policy Institute of California (PPIC) report, "Keeping College Affordable for California Students," living expenses, housing, books, and food expenses have outpriced the cost of tuition. The report noted that housing expenses are now the largest cost associated with attending college and is a barrier preventing many students from seeking higher education. In October 2019, the PPIC reported in "Making College Affordable," on-campus housing at the UC made up 45 percent of the total cost of attendance, and at the CSU, housing costs made up 53 percent of the total cost of attendance. In 2019, the California Student Aid Commission published the results of the Student Expenses and Resources Survey (SEARS),

which found 35 percent of students experienced one or more conditions of housing insecurity and established a correlation between housing insecurity and lower completion, persistence to degree, and credit attainment.

What housing information is currently available? Each CSU campus is required, and each UC campus is requested, to annually post on its website information about the market cost of a one-bedroom apartment in the areas surrounding that campus where its students commonly reside.

Recently enacted legislation requires the CSU, and requests the UC, to conduct a needs assessment to determine the projected student housing needs, by campus, from 2022–23 to 2026–27, and create a student housing plan with a focus on affordable student housing. Housing plans are to outline how the segment will meet the projected student housing needs, by campus, and include the specific actions to be taken each year. The students housing plans are to be reviewed and updated every three years after July 1, 2022, and include the specific actions to be taken in the next five years.

This bill applies only to campuses that provide student housing and would provide additional information specific to on-campus housing and about the pool of the student body that is seeking on-campus housing. Committee staff believes that all of the information this bill requires to be posted is currently being collected by campuses. This could provide a broader perspective of the overall housing situation for students at each campus and across postsecondary education segments. This bill requires campus-based data to be compiled into systemwide reports, thereby allowing housing information about each segment, and each campus of the segments, to be available on one site. *It is possible, but not certain, that the student housing plans to be developed for 2022-23 through 2026-27 will include the information specified in this bill.*

As noted by the author, "campuses set their own housing goals, and campus goals vary. Many campuses aim to house all interested first-year students. Some campuses aim to house first- and second-year students. In addition to single undergraduate students, university campuses typically have goals to accommodate a particular share of graduate students and students with families." The author cites the need to understand how California's public postsecondary education campuses and segments are meeting students' current and future housing needs.

Budget trailer bill language established the Higher Education Student Housing Grant Program in 2021, to increase capacity and expand the inventory of student housing at public postsecondary education institutions, particularly to help foster

future enrollment growth and affordability by reducing the cost of student housing, especially for lower-income students. The program is to receive a total of $2 billion over three years for three rounds of grants. Of the total $2 billion, statute specifies $400 million (20 percent) is for UC, $600 million (30 percent) is for CSU, and $1 billion (50 percent) is for CCC. Additionally, up to $25 million of the total $2 billion is available for initial planning and feasibility studies at community colleges. Most notably, statute specifies rents for the state-funded on-campus housing units cannot exceed 30 percent of 50 percent of a campus's area median income. **[**The 2022-23 Budget: Student Housing (cccco.edu)]

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

According to the Senate Appropriations Committee:

1) This bill requires campus-based data to be compiled into systemwide reports, thereby allowing housing information about each segment, and each campus of the segments, to be available on one site. While all of this information is likely already being collected by community college campuses, they may now be eligible to seek reimbursement for the related costs if the Commission on State Mandates determines that the activities constitute a state mandate. The extent of the costs is unknown, but could be in the tens of thousands to low hundreds of thousands of dollars statewide. (Proposition 98 General Fund).

2) The UC and CSU indicate that while some of the bill's provisions need clarification, the costs resulting from the bill should be minor and absorbable within existing resources.

3) The Chancellor's Office estimates one-time General Fund costs of $10,000 to establish the data element and add it to its NOVA reporting system and ongoing staffing costs of $18,000 to produce the report.

SUPPORT: (Verified 8/11/22)

California Faculty Association

OPPOSITION: (Verified 8/11/22)

None received

ASSEMBLY FLOOR: 75-0, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi,

Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Berman, O'Donnell, Villapudua

Prepared by: Lynn Lorber / ED. / (916) 651-4105
8/15/22 13:01:42

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

SENATE RULES COMMITTEE AB 2480
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2480
Author: Arambula (D)
Amended: 6/14/22 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 4-0, 6/20/22
AYES: Hurtado, Jones, Cortese, Pan
NO VOTE RECORDED: Kamlager

SENATE APPROPRIATIONS COMMITTEE: 6-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, Wieckowski
NO VOTE RECORDED: McGuire

ASSEMBLY FLOOR: 74-0, 5/23/22 - See last page for vote

SUBJECT: Rehabilitation services: persons with vision loss

SOURCE: California Council of the Blind

DIGEST: This bill expands independent living services provided by the Department of Rehabilitation (DOR) that are currently available to adults over age 55 to all adults who are blind or have low vision (B/VI). This bill allows DOR to provide independent living services through grants to private organizations with demonstrated expertise in serving B/VI adults, including current grantees under the Older Individuals who are Blind (OIB) program, as provided.

ANALYSIS:

Existing federal law:

1) Defines an "older individual who is blind" to mean an individual age 55 or older whose significant visual impairment makes competitive employment extremely difficult to attain but for whom independent living goals are feasible. *(29 United States Code (USC) 796(j))*

2) Establishes a formula grant program for states to provide independent living services to older individuals who are blind. (*29 USC 796(k))*

3) Establishes vocational rehabilitation services to empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society through statewide workforce development systems, as provided. *(29 USC 701 et seq.)*

Existing state law:

1) Provides that any individual with a disability, as defined, who requires vocational rehabilitation services to prepare for, enter, engage in, or retain gainful employment, is eligible for vocational rehabilitation services. *(WIC 19103)*

2) Authorizes DOR to establish orientation centers for the blind to provide intensive residential services designed for maximum vocational and personal rehabilitation and for the preparation of blind persons for useful and remunerative work in trades, professions, private business, private industry, or public service. *(WIC 19500 et seq.)*

3) Authorizes DOR to appoint counselor-teachers to provide individual guidance and training to the adult blind of the state. *(WIC 19525)*

4) Establishes the Business Enterprises Program for the Blind program, which authorizes blind persons to operate vending facilities on state property for the purpose of providing remunerative employment, enlarging the economic opportunities, and stimulating independence. *(WIC 19625)*

This bill:

1) Requires DOR to establish a grant program to provide services to promote independent living to adults who are B/VI, and who are not eligible to receive vocational rehabilitation services pursuant to federal law.

2) Requires the grant program to assist adults who are B/VI, including those individuals who may be at risk of institutionalization or who wish to transition into the community from an institutionalized setting, by providing vision rehabilitation services that will enable them to live independently.

3) Requires DOR to implement the program subject to an appropriation of funds in the annual Budget Act or through the use of any other funds made available for the purposes of the program.

4) Requires DOR to implement the program by awarding grants to private organizations with demonstrated expertise in serving adults who are B/VI. Allows DOR to select private organizations awarded grants under the most recent solicitation of grantees under the OIB program without using a competitive award process.

5) Removes language allowing a counselor-teacher to teach "typing" and "household arts and crafts" to an adult individual who is blind, and allows a counselor-teacher to teach "independent living skills and provide assistive technology training" to an adult individual who is blind.

6) Makes other technical changes.

Background

Department of Rehabilitation. DOR provides vocational rehabilitation and independent living programs for individuals with disabilities in California. Vocational rehabilitation services are designed to help job seekers with disabilities obtain competitive employment in integrated work settings. Independent living services may include peer support, skill development, systems advocacy, referrals, assistive technology services, transition services, housing assistance, and personal assistance services.

DOR Programs for B/VI Individuals. DOR offers several specialized programs for individuals who are B/VI through the Specialized Services Division. The Blind Field Services program provides specialized and comprehensive vocational rehabilitation services to B/VI Californians and implements the federal Workforce Innovation and Opportunity Act (WIOA) by providing pre-employment transition services to students with disabilities. The Business Enterprises Program provides training and support to enhance self-employment for B/VI individuals through operating vending facilities such as cafeterias and stores on public property. The Orientation Center for the Blind is a DOR-owned and operated residential training facility located in Albany, California that assists B/VI individuals with adjusting to vision loss, preparing for success in post-secondary education and vocational training, and obtaining competitive integrated employment.

Discontinuation of the "Homemaker" employment outcome. Prior to the implementation of the federal WIOA of 2014, DOR provided independent living services to some B/VI individuals through its vocational rehabilitation program by using the employment outcome known as "homemaker." WIOA significantly amended the Rehabilitation Act of 1973 to place a heightened emphasis on

competitive integrated employment, forcing the discontinuation of the "homemaker" employment outcome and leaving those B/VI individuals under age 55 who provide unpaid family care in the home or otherwise do not have a competitive employment goal ineligible to receive independent living services.

Older Individuals who are Blind Program. The OIB program provides services to B/VI individuals ages 55 and older to assist them with independent living, as well as providing training and skill building for professionals serving the older B/VI population. The OIB program awards federal funding to partner organizations in 56 counties. Services provided by partner organizations include: orientation and mobility, adaptive equipment/assistive technology, transportation, activities of daily living or independent living skills, adjustment counseling, self-advocacy, low vision training, and other services to enhance participation in and integration with the larger community.

This bill, subject to an appropriation or through the use of funds made available for the purpose, expands the services that are currently available to Californians who are over age 55 through the OIB program to any B/VI adult who is not eligible for vocational rehabilitation services. As a part of this expansion, this bill allows DOR to select private organizations already providing services to adults over age 55 through the OIB program, without using a competitive process. Services may include the provision of eyeglasses and other visual aids; mobility training, Braille instruction, guide services, reader services, transportation, independent living skills training, peer counseling, and other independent living services, as defined.

Comments

According to the author, "Persons who lose all or most of their vision face a variety of challenges if they are to continue to live independently. Consider the challenges that an individual experiencing vision loss faces—the need to relearn how to navigate their daily routine without the use of sight. The simple tasks of walking around their home environment, cooking a meal in their kitchen, cleaning their home all need to be adjusted. Many services offered by our state to individuals who are blind focus on future employment and not the immediate needs they face. AB 2480 will establish a grant program to provide transitional services to all adults who are blind. Providing these vital services for all adults experiencing vision loss will support these individuals in addressing the challenges they face and support maintaining their independence."

Related/Prior Legislation

SB 105 (Burton, Chapter 1102, Statutes of 2002) established the Division of Services for the B/VI and the Deaf and Hard of Hearing within DOR.

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

According to the Senate Appropriations Committee:

- Unknown General Fund cost pressures, likely millions of dollars, to provide expanded services.

- No fiscal impact to DOR.

SUPPORT: (Verified 8/12/22)

California Council of the Blind (source)
California Optometric Association
Disability Rights California

OPPOSITION: (Verified 8/12/22)

None received

ASSEMBLY FLOOR: 74-0, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Mia Bonta, O'Donnell, Blanca Rubio

Prepared by: Elizabeth Schmitt / HUMAN S. / (916) 651-1524
8/13/22 9:43:54

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

SENATE RULES COMMITTEE AB 2487
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2487
Author: Gray (D)
Introduced: 2/17/22
Vote: 21

SENATE AGRICULTURE COMMITTEE: 5-0, 6/21/22
AYES: Borgeas, Hurtado, Caballero, Eggman, Glazer

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 61-0, 5/5/22 (Consent) - See last page for vote

SUBJECT: Fairs: district agricultural associations: sponsorship fees

SOURCE: Author

DIGEST: This bill authorizes a district agricultural association to pay sponsorship fees and join and participate in affairs of any similar organization that deals with subjects related to the powers and duties of the association.

ANALYSIS:

Existing law:

1) Establishes district agricultural associations *(Business and Professions Code Section 19622.1).*

2) Authorizes an association to pay membership fees to participate in affairs of any organization that has the following purposes *(Food and Agriculture Code Section 4056)*:

   a) Interchange of information that relates to livestock, poultry, and other agricultural animals and products.

   b) Conduct and manage fairs.

c) Conduct horseracing meetings.

3) Authorizes an association to pay membership fees, join, and participate in affairs of any similar organization that deals with subjects related to powers and duties of the association *(Food and Agriculture Code, Section 4056).*

This bill authorizes an association to pay sponsorship fees and join and participate in affairs of any similar organization that deals with subjects related to the powers and duties of the association.

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

SUPPORT: (Verified 8/1/22)

None received

OPPOSITION: (Verified 8/1/22)

None received

ARGUMENTS IN SUPPORT: According to the author:

> California's fairs operate under the guidelines of the Department of Food and Agriculture - Division of Fairs and Expositions. Collectively they host events that are attended by nearly ten million Californians and tourists annually. While current law authorizes fairs to pay membership fees to an association that manages a fair, horse racing program, or livestock show, AB 2487 clarifies that fairs can also pay sponsorship fees which are fees collected from the sale of any and all title, signage, billboard, and secondary advertisements.

ASSEMBLY FLOOR: 61-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Ward, Akilah Weber, Wilson, Wood, Rendon

NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Friedman, Gallagher, Cristina Garcia, Gipson, Levine, McCarty, Medina, Villapudua, Waldron, Wicks

Prepared by: Reichel Everhart / AGRI. /(916) 651-1508
8/4/22 10:10:25

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2493
Author: Chen (R)
Amended: 8/17/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-0, 6/22/22
AYES: Cortese, Durazo, Laird, Newman
NO VOTE RECORDED: Ochoa Bogh

SENATE JUDICIARY COMMITTEE: 10-0, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, Jones, McGuire, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas

ASSEMBLY FLOOR: 68-0, 5/2/22 - See last page for vote

SUBJECT: County employees' retirement: disallowed compensation: benefit adjustments and calculations

SOURCE: Association of Orange County Sheriff's Department
California Professional Firefighters

DIGEST: This bill makes several changes to the County Employees Retirement Law of 1937 ('37 Act or CERL) regarding pension calculation adjustments arising from erroneous inclusion of disallowed compensation, including requiring participating county employers to do the following: (1) reimburse their respective retirement system for pension overpayments made to peace officer and firefighter retirees arising from erroneous employer reporting of disallowed compensation, and (2) pay affected retirees a lump sum amount equal to 20 percent of the actuarial equivalent present value of a retiree's "lost" pension going forward due to the system's recalculation of the retiree's benefit to exclude the disallowed compensation.

Senate Floor Amendments of 8/17/22:

1) Amend the definition of "compensation earnable" to provide that, to the extent

a retirement system has not defined "grade" when considering whether an employer has provided compensation to a group of like employees, the system may define "grade," to mean a number of employees considered together because they share similarities in job duties, schedules, unit recruitment requirements, work location, collective bargaining unit, or other logical work-related grouping. Thus, a system that has not already defined "grade' may, under this definition, subdivide groups of employees and include the pay provided to a subgroup in the subgroup's employee pensionable earnings, if applicable.

2) Narrow the exception that excludes from the bill's mandates those county retirement systems that have already initiated a process to adjust pensions and recover pension overpayments resulting from the reporting of disallowed compensation by defining "initiated a process" to mean the system must have already begun collecting overpayments or adjusted the retirement allowance of a retired member. Thus, systems that have already developed adjustment and recovery plans but not have yet begun collections or adjustments would have to follow the bill's mandates.

3) Require an employer to have reported compensation and made contributions thereon for at least two instead if threw years prior to the member's final compensation for that member to be eligible for the bill's replacement benefits.

4) Provide the employer up to four instead of three years to complete payment of the replacement benefit to the retiree.

ANALYSIS:

Existing law:

1) Provides, among other things under the California Constitution that, "the members of the retirement board of a public pension or retirement system shall discharge their duties with respect to the system solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administrating the system." (Section 17, Art. XVI, Cal. Const.)

2) Establishes the County Employees Retirement Law (CERL) that governs 20 independent county retirement associations and provides for retirement systems for county and district employees in those counties adopting its provisions. Currently, 20 counties operate retirement systems under the CERL and these systems are commonly referred to as "1937 Act system" or "'37 Act

systems." These systems are regulated by, and administer the CERL, that is also commonly referred to as the "'37 Act." (Government Code § 31450 et seq.)

3) Establishes that the purpose of the CERL is to recognize a public obligation to county and district employees who become incapacitated by age or long service in public employment and its accompanying physical disabilities by making provision for retirement compensation and death benefit as additional elements of compensation for future services and to provide a means by which public employees who become incapacitated may be replaced by more capable employees to the betterment of public service without prejudice and without inflicting a hardship upon the employees removed. (GC §31451)

4) Establishes the Public Employees' Pension Reform Act of 2013 (PEPRA) – a comprehensive reform of public employee retirement that, among other things, increased contributions towards retirement, decreased benefit formulas, and increased the age of retirement that apply to new members of the system first hired on or after January 1, 2013, and made changes that apply to all members towards resolving unfunded liabilities, the manipulation of compensation for purposes of calculating a retirement allowance (i.e., pensions spiking), double-dipping, and other prescribed best practice measures. (GC § 7522.02 et seq.)

5) Defines, under the CERL, "compensation" to mean the remuneration paid in cash out of county or district funds, plus any amount deducted from a member's wages for participation in a deferred compensation plan, as provided, but does not include the monetary value of board, lodging, fuel, laundry, or other advantages furnished to the member. (GC § 31460)

6) Defines, pursuant to the CERL, "compensation earnable" by a member to mean the average compensation as determined by the board, for the period under consideration upon the basis of the average number of days ordinarily worked by persons in the same grade or class of positions during the period, and the same rate of pay. Among other things, "compensation earnable" expressly does not include certain types or forms of compensation paid to, and when they were paid that, enhance a member's retirement benefit under the system. (GC § 31461)

7) Establishes that when a county or district reports compensation to the system, it must identify the pay period in which the compensation was earned regardless of when it was reported or paid, and prescribes the reporting requirements and limitations on compensation earnable. (GC § 31542.5)

8) Establishes that "compensation earnable" must not include overtime premium pay other than premium pay for hours worked within the normally scheduled or regular working hours that are in excess of the statutory maximum workweek or work period applicable to the employee under federal law, as specified. (GC § 31461.6)

9) Defines "final compensation" to mean the average annual compensation earnable by a member during any three years elected by a member at or before the time they file an application for retirement, or, if they fail to elect, during the three years immediately preceding their retirement. If a member has less than three years of service, their final compensation must be determined by dividing their total compensation by the number of months of service credited to them and multiplying by 12. (GC § 31462)

10) Prescribes how a '37 Act system determines final compensation, including final compensation based on compensation for one year (if adopted by a county), and in relation to intermittent members, subject to certain conditions where applicable. (GC §§ 31462.05, 31462.1, and 13462.2)

This bill:

1) Amends the definition of "compensation earnable" in the '37 Act to provide that, to the extent a retirement system has not defined "grade" when considering whether an employer has provided compensation to a group of like employees, it may define "grade," to mean a number of employees considered together because they share similarities in job duties, schedules, unit recruitment requirements, work location, collective bargaining unit, or other logical work-related grouping. Thus, a system that has not already defined "grade' may, under this definition, subdivide groups of employees and include the pay provided to a subgroup in the subgroup's employee pensionable earnings, if applicable.

2) Defines the following terms for purposes of the bill's provisions:
   a) "Agreement" means a memorandum of understanding or collective bargaining agreement.
   b) "Alameda" means the Supreme Court case of Alameda County Deputy Sheriff's Association v. Alameda County Employees' Retirement Association (2020) 9 Cal.5th 1032 or its holding.
   c) "Disallowed compensation" means compensation reported for a sworn peace officer or firefighter of the retirement system that the system subsequently determines is not in compliance with PEPRA, Alameda,

Section 31461, or the system's administrative regulations, through no fault of the sworn peace officer or firefighter.

d) "Employer" means the appropriate applicable county, agency, or district standing in relationship between the employee and the system.
e) "Initiated a process" means a system has begun collecting any portion of an overpayment from any affected retired member, survivor, or beneficiary or adjusted the retirement allowance of any affected retired member, survivor, or beneficiary due to a determination of disallowed compensation.
f) "PEPRA" means the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1).
g) "System" means a retirement association or system established by the 1937 County Employees Retirement Act.

3) Mandates a '37 Act retirement system require a system-participating employer to discontinue reporting disallowed compensation if the system determines that the compensation the employer reported for a sworn peace officer or firefighter is disallowed compensation.

4) Provides that for *active* peace officer or firefighters, all contributions made on disallowed compensation must be credited against future contributions to the benefit of the employer or agency that reported the disallowed compensation, and any paid by, or on behalf of, that member must be returned to the member by the employer or agency that reported the disallowed compensation, except as specified.

5) Allows a system that has initiated a process prior to July 1, 2022, to recalculate an *active* sworn peace officer's or firefighter's reportable compensation to exclude disallowed compensation and return contributions, either directly to the member, indirectly through the employer, or by some other reasonable manner, to continue to use that process provided that it is consistent with PEPRA as it read on July 1, 2022, and with Alameda, in lieu of the process provided by this bill.

6) Provides that for *retired* sworn peace officers or firefighters, their survivors, or beneficiaries, whose final compensation at the time of retirement was predicated upon the disallowed compensation, the contributions made on the compensation must be credited against future contributions, to the benefit of the employer or agency that reported the disallowed compensation and the retirement system must permanently adjust the benefit of the affected retired member, survivor, or beneficiary to reflect the exclusion of the disallowed

compensation, and includes repayment and notice requirements provided that the following conditions are satisfied: (a) the employer reported the compensation to the system and made contributions on that compensation while the sworn peace officer or firefighter was actively employed for at least two years prior to the member's final compensation; (b) the system determined after the date of retirement that the compensation was disallowed; and (c) the sworn peace officer or firefighter was not aware that the compensation was disallowed at the time the employer reported it.

7) Requires the employer to do the following if the disallowed compensation meets the above conditions:
   a) Pay to the system, as a direct payment, the full cost of any overpayment of the prior paid benefit made to an affected retired member, survivor, or beneficiary resulting from the disallowed compensation.
   b) Pay to the affected retired member, survivor, or beneficiary, as appropriate, 20 percent of the amount calculated by the system representing the actuarial equivalent present value of the difference between the monthly allowance that was predicated on the disallowed compensation and the adjusted monthly allowance calculated excluding the disallowed compensation for the duration the system projects to pay that allowance to the retired member, survivor, or beneficiary.

8) Requires the employer to begin payment within six months of notice from the system but permits the employer up to four years to complete the payment.

9) Requires the system to provide a written notice to the employer that reported contributions on the disallowed compensation and to the affected retired member, survivor, or beneficiary, including, at a minimum, all of the following: (a) the overpayment amount that the employer shall pay to the system; (b) the actuarial equivalent present value that the employer owes to the retired member, survivor, or beneficiary; and (c) written disclosure of the employer's obligations to the retired member, survivor, or beneficiary pursuant to this section.

10) Allows a system that has initiated a process prior to July 1, 2022, to permanently adjust the benefit of the affected *retired* member, survivor, or beneficiary to reflect the exclusion of the disallowed compensation to continue to use that process provided that it is consistent with PEPRA as it read on July 1, 2022, and with Alameda, in lieu of the process provided by this bill.

11) Requires the system to, upon the employer's request, provide the employer or agency with contact information or data in its possession of a retired member,

their survivors, or beneficiaries, so that the employer or agency can fulfill its obligations to those individuals, and that the contact information remain confidential.

12) Authorizes an employer to submit to the system for review an additional compensation item that a party to a proposed agreement requests be included, contained, adopted, or a entered into that agreement, on and after January 1, 2022, that is intended to form the basis of a pension benefit calculation, in order for the system to review consistency of the proposal with PEPRA, Alameda, Section 31461, and the system's administrative regulations.

13) Requires the employer to include with the submission to the system all supporting documents or requirements the system deems necessary to complete its review.

14) Requires the system to provide guidance regarding the submission within 90 days of the receipt of all information required to make a review.

15) Authorizes, but does not require, the system to periodically publish a notice of the proposed compensation language submitted to the system pursuant to this section for review and the guidance it provided.

16) Clarifies that the bill does not alter or abrogate an employer's responsibility to meet and confer in good faith with the employee organization regarding the impact of the disallowed compensation or the effect of any disallowed compensation on the rights of the employees and the obligations of the employer to its employees, including any employees who, due to the passage of time and promotion, may have become exempt from inclusion in a bargaining unit, but whose benefit was the product of collective bargaining.

17) Provides that the bill does not affect or otherwise alter a party's right to appeal any determination regarding disallowed compensation made by the system after July 30, 2020.

18) Makes legislative findings and declarations relating to the necessity of limiting public access to information that may be shared among public agencies to effect the bill's purpose.

19) Prohibits the bill from being interpreted to alter the Legislature's intent in enacting the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1) of, and Section 31461 of, the Government Code, to alter a retirement system's corresponding implementing administrative regulations, or to alter the holding

in Alameda County Deputy Sheriff's Association v. Alameda County Employees' Retirement Association (2020) 9 Cal.5th 1032. States that the Legislature intends this bill to be consistent, not in conflict, with those laws, regulations, and the Alameda holding.

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

SUPPORT: (Verified 8/19/22)

Association of Orange County Sheriff's Department (co-source)
California Professional Firefighters (co-source)
Barstow Professional Firefighters Association Local 2325
California Fraternal Order of Police
California State Lodge, Fraternal Order of Police
Contra Costa County Professional Firefighters Local 1230
Kern County Firefighters Local 1301 Union
Lathrop-Manteca Firefighters Local 4317
Long Beach Police Officers Association
Marin Professional Firefighters Local 1775
Orange County Professional Firefighters Association, Local 3631
Peace Officers Research Association of California
Sacramento County Deputy Sheriffs' Association
San Bernardino County Firefighters Local 965
San Bernardino County Safety Employees' Benefit Association
San Bernardino County Sheriff's Employees' Benefit Association
Ventura County Professional Firefighters Association Local 1364

OPPOSITION: (Verified 8/19/22)

California Special Districts Association
California State Association of Counties
County of Kern
County of San Joaquin
County of Santa Barbara
County of Tulare
Marin County Employees' Retirement Association
Mendocino County Employees' Retirement Association
Rural County Representatives of California
Sacramento County Employees' Retirement System
San Bernardino County Employees' Retirement Association
Sonoma County Employees' Retirement Association
Urban Counties of California

ARGUMENTS IN SUPPORT: According to the California Professional Firefighters, "These important protections align with recently enacted legislation to protect retirees from disallowed compensation at CalPERS. That law, SB 278 by Senator Leyva, has started to provide important protection to retirees and this measure will provide that same level of protection to retirees in 1937 Act Retirement Systems.

"It is patently unfair to force a retiree who has dedicated a lifetime of service to the people of California to lose a large portion of their fixed income over a disallowed pay item that was not their fault. If the employer promises and pays for a benefit that is disallowed after the fact, the retiree living on a fixed income who is budgeting according to that fixed income should not have to pay the price for that broken promise."

According to the Association of Orange County Deputies, "Oftentimes retirees make the decision to retire based on the retirement dollar amount provided to them. Retirees should not bear the heavy burden from errors that, through no fault of their own, result in a clawback of retirement funds as well as significantly reduced monthly payments going forward. This creates a substantial hardship for retirees that budget based on fixed income. AB 2493 would protect the retirement security of sworn peace officers and firefighters by ensuring that any compensation agreed to by their employer and paid for by the employer and the retiree cannot be subsequently and retroactively deducted from the retired member's pension allowance because of a disallowed pay item."

ARGUMENTS IN OPPOSITION: According to the California State Association of Counties, "Over the last two years, the impacted '37 Act systems have been working to comply with Alameda and recalculate retirement benefits for members who retired after January 1, 2013.

"AB 2493 unfairly places the financial consequences of the Court's decision on counties by requiring '37 Act system employers to pay a "penalty" equal to 20 percent of the current actuarial value of retiree benefits deemed unlawful. The penalty, which will result in affected counties owing tens of millions of dollars in unbudgeted dollars to retirees for what the Court found to be an illegal benefit, implies counties made the decision to misapply the law. In reality, counties simply complied with the pension agreements established between employees, employers, and retirement systems.

"For the reasons stated above, we must oppose AB 2493. The fiscal impact on affected counties will place a significant strain on general fund dollars, resulting in

reductions to critical programs including public safety, transportation, and behavioral health."

According to the San Bernardino County Retirement System, "The language of AB 2493 takes aim at all pay items that were disallowed as a direct result of Alameda. These are not "once in a blue moon" errors; these are numerous corrections that range from very small to large adjustments. The SBCERA Board did not require the recoupment of any overpaid amounts from retirees for the period preceding Alameda. Should AB 2493 pass as currently written, SBCERA anticipates that over 2,000 actuarial calculations will need to be performed for public safety members at a potential costs of millions of dollars.

"In addition, the language of AB 2493 imposes additional duties for the retirement systems to meet and confer with employee organizations regarding the impact of disallowed compensation items. The retirement systems are not parties to labor negotiations between employers and their employees. Finally, AB 2493 requires county retirement systems to follow CalPERS regulations that define 'compensation earnable.' Some of those rules are different from those authorized under the County Employees' Retirement Law, both regarding their inclusions in, and exclusions from, retirement allowance determinations, and is unclear from AB 2493 how those differences are to be reconciled."

ASSEMBLY FLOOR: 68-0, 5/2/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Mia Bonta, Calderon, Megan Dahle, Gallagher, Gipson, Levine, Medina, Quirk-Silva, Waldron

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
8/19/22 13:08:59

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2494
Author: Salas (D)
Amended: 3/24/22 in Assembly
Vote: 21

SENATE ELECTIONS & C.A. COMMITTEE: 3-1, 6/13/22
AYES: Newman, Hertzberg, Leyva
NOES: Nielsen
NO VOTE RECORDED: Glazer

SENATE GOVERNANCE & FIN. COMMITTEE: 4-1, 6/22/22
AYES: Caballero, Durazo, Hertzberg, Wiener
NOES: Nielsen

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 54-20, 5/23/22 - See last page for vote

SUBJECT: County of Kern Citizens Redistricting Commission

SOURCE: Dolores Huerta Foundation

DIGEST: This bill establishes the County of Kern Citizens Redistricting Commission (CKCRC) and requires the CKCRC to establish the supervisorial district lines for Kern County following the decennial census, as specified.

ANALYSIS:

Existing law:

1) Requires the board of supervisors of each county, following each federal decennial census, to adopt boundaries for all of the supervisorial districts of the county so that the supervisorial districts are substantially equal in population as

required by the United States Constitution. Requires population equality to be based on the total population of residents of the county as determined by the most recent federal decennial census for which specified redistricting data are available, as specified.

2) Requires the board of supervisors to adopt supervisorial district boundaries using a specified criteria and process.

3) Authorizes a county, general law city, school district, community college district, or special district to establish an independent redistricting commission, an advisory redistricting commission, or a hybrid redistricting commission by resolution, ordinance, or charter amendment, subject to certain conditions and as specified.

4) Establishes a procedure for a government of a county to adopt a charter by a majority vote of its electors voting on the question. Generally provides greater autonomy over county affairs to counties that have adopted charters. Provides that counties that have adopted charters are subject to statutes that relate to apportioning population of governing body districts.

5) Establishes a Citizens Redistricting Commission in Los Angeles County and an Independent Redistricting Commission in San Diego County, and charges the commissions with adjusting districts of supervisorial districts after each decennial federal census, as specified.

This bill:

1) Provides for the creation of the CKCRC, and tasks the CKCRC with adjusting the boundary lines of Kern County's supervisorial districts in the year following the year in which the decennial federal census is taken. Requires the CKCRC to be created no later than December 31, 2030, and in each year ending in the number zero thereafter.

2) Requires the CKCRC to consist of 14 members who meet specified requirements. Requires at least one CKCRC member to reside in each of the five existing county supervisorial districts. Requires the political party preferences of the CKCRC members to be as proportional as possible to the total number of voters who are registered with each political party in Kern County, or who decline to state or do not indicate a party preference, as

determined by registration at the most recent statewide election, as specified.

3) Establishes a process for interested individuals to submit an application to become a CKCRC member, as specified. Creates a process for the county elections official to narrow the application pool, as specified.

4) Requires, at a regularly scheduled meeting of the board of supervisors, the Auditor-Controller of Kern County to conduct a random drawing to select one commissioner from each of the five subpools established by the county elections official, and to then conduct a random drawing from all of the remaining applicants to select three additional commissioners.

5) Requires the eight selected commissioners to review the remaining names in the subpools of applicants and to appoint six additional applicants to the CKCRC, as specified.

6) Provides the term of office of each member of the CKCRC expires upon the appointment of the first member of the succeeding commission.

7) Requires the board of supervisors to provide for reasonable funding and staffing for the CKCRC. Requires each CKCRC member to be a designated employee for purposes of the conflict of interest code adopted by Kern County, as specified.

8) Provides that nine members of the CKCRC constitute a quorum and that nine or more affirmative votes are required for any official action.

9) Prohibits the CKCRC from retaining a consultant who would not be qualified as a CKCRC applicant due to any of the disqualifying criteria, as specified.

10) Requires the CKCRC to establish single-member supervisorial districts for the board of supervisors pursuant to a mapping process using a specified criteria and requirements. Requires the CKCRC to adopt a redistricting plan adjusting the boundaries of the supervisorial districts and to file the plan with the county elections official by the map adoption deadline set forth in existing law for county supervisorial maps, as specified. Requires the CKCRC to issue, with the final map, a report that explains the basis on which the CKCRC made its decisions in achieving compliance with the specified criteria and requirements provided by this bill.

11) Requires the CKCRC, prior to drawing a draft map, to conduct at least seven public hearings, to take place over a period of no fewer than 30 days, with at least one public hearing held in each supervisorial district, as specified.

12) Requires the CKCRC, after drawing the draft maps, to post the map for public comment on Kern County's website and conduct at least two public hearings to take place over a period of no fewer than 30 days.

13) Requires the CKCRC to establish and make available to the public a calendar of all public hearings, requires the hearings to be scheduled at various times and days of the week to accommodate a variety of work schedules to reach as large an audience as possible, and requires the CKCRC to arrange for the live translation of a hearing if requested, as specified. Requires the CKCRC to post the agenda for the public hearings at least seven days before the hearings. Requires the agenda for a meeting conducted after the CKCRC has drawn a draft map to include a copy of that map.

14) Requires the CKCRC to take steps to encourage county residents to participate in the redistricting public review process, as specified.

15) Requires the board of supervisors to take steps necessary to ensure that a complete and accurate computerized database is available for redistricting, and that procedures provide the public with access to redistricting data and software equivalent to what is available to the CKCRC members, as specified.

16) Requires all records of the CKCRC relating to redistricting, and all data considered by the CKCRC in drawing a draft map or the final map, to be public records.

17) Provides for various prohibitions for CKCRC members beginning from the date of appointment to the CKCRC, as specified.

18) Makes findings and declarations that a special law is necessary because of the unique circumstances facing Kern County.

Background

Local Redistricting and Previous Legislation. Prior to 2017, state law generally permitted a county or a city to create an advisory redistricting commission, but did not expressly permit local jurisdictions to create commissions with the authority to

establish district boundaries. The authority to establish district boundaries for a local jurisdiction generally was held by the governing body of that jurisdiction. Additionally, while charter cities could establish redistricting commissions that had the authority to establish district boundaries, charter counties did not have that authority in the absence of express statutory authorization.

In 2016, the Legislature passed and Governor Brown signed SB 1108 (Allen, Chapter 784, Statutes of 2016). SB 1108 permitted a county or a general law city to establish an advisory or independent redistricting commission, subject to certain conditions. SB 1108 generally provided cities and counties with the discretion to determine the structure and membership of an advisory or independent redistricting commission. However, it did establish minimum qualifications for commission membership. While SB 1108 imposed few restrictions and requirements on advisory commissions, it did subject members of independent commissions to extensive eligibility requirements and post-service restrictions.

At the same time that SB 1108 was being considered in the Legislature, SB 958 (Lara, Chapter 781, Statutes of 2016) was signed into law and required the establishment of a Citizens Redistricting Commission in Los Angeles County and charged it with adjusting the boundaries of supervisorial districts after each decennial federal census, as specified.

In 2017, the Legislature approved and Governor Brown signed AB 801 (Weber, Chapter 711, Statutes of 2017) replaced San Diego County's Independent Redistricting Commission established by SB 1331 (Kehoe, Chapter 508, Statutes of 2012) with a commission similar to the commission established by SB 958.

In 2018, the Legislature passed and Governor Brown signed SB 1018 (Allen, Chapter 462, Statutes of 2018). SB 1018 extended the authority to adopt redistricting commissions to school districts, community college districts, and special districts. SB 1018 also allowed for the creation of hybrid commissions where a commission recommends to a legislative body multiple maps for that legislative body and legislative body must adopt one of those maps without modification, unless certain conditions are met. Furthermore, SB 1018 relaxed some of the eligibility requirements for members of independent commissions and eased one of the post-service restrictions on those members in an effort to expand the pool of individuals who are available to serve on such commissions.

Who Draws the Lines in Kern County? The authority to establish district boundaries for local jurisdictions generally is held by the governing body of that

jurisdiction. Consequently, the Kern County Board of Supervisors is charged with redrawing the boundary lines for supervisorial districts after each decennial federal census using specified criteria outlined in existing law.

Comments

According to the author, AB 2494 is a continuation of the state's work to improve the health and integrity of our democracy and protect everyone's constitutional right to an equal vote. This bill will protect taxpayer money and prevent future lawsuits against Kern County like there have been in the past. Establishing an independent redistricting commission in Kern County will help ensure that all voices throughout our community will be heard and that the constitutional rights of voters are protected.

Related/Prior Legislation

AB 1307 (Cervantes, 2022) creates a Citizens Redistricting Commission in Riverside County, as specified.

AB 2030 (Arambula, 2022) creates a Citizens Redistricting Commission in Fresno County, as specified.

SB 1269 (Allen, 2022) makes various changes to the composition and operations of the Los Angeles County Citizens Redistricting Commission.

SB 139 (Allen, 2019) would have required a county with a population of 400,000 or more to establish an independent redistricting commission to adopt the county supervisorial districts after each federal decennial census, as specified. Kern County, which had an estimated population of over 900,000 at the time that SB 139 was being considered by the Legislature, would have been covered by that bill. Governor Newsom vetoed SB 139 stating:

> *This bill requires a county with more than 400,000 residents to establish an independent redistricting commission tasked with adopting the county's supervisorial districts following each federal decennial census.*
>
> *While I agree these commissions can be an important tool in preventing gerrymandering, local jurisdictions are already authorized to establish independent, advisory or hybrid redistricting commissions. Moreover, this measure constitutes a clear mandate for which the state may be required to*

reimburse counties pursuant to the California Constitution and should therefore be considered in the annual budget process.

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

According to the Senate Appropriations Committee:

- This bill would not have a fiscal impact to the Secretary of State's Office.
- By requiring Kern County to create and operate a redistricting commission as specified, this bill creates a state-mandated local program. To the extent the Commission on State Mandates determines that the provisions of this bill create a new program or impose a higher level of service on Kern County, the County could claim reimbursement of those costs (General Fund). The magnitude of these costs is unknown, but minimally in the hundreds of thousands on a decennial basis.

SUPPORT: (Verified 8/12/22)

Dolores Huerta Foundation (source)
American Civil Liberties Union California Action
California Environmental Voters
League of Women Voters of California
Planned Parenthood Mar Monte
Services, Immigrant Rights and Education Network
United Food and Commercial Workers Local 770

OPPOSITION: (Verified 8/12/22)

Kern County Board of Supervisors
One individual

ARGUMENTS IN SUPPORT: In a letter sponsoring AB 2494, the Dolores Huerta Foundation states, in part, the following:

> Creating fair district lines is a critical tool our communities have to reclaim their voting power. For many communities of color throughout the nation, gerrymandering has historically allowed elected representatives to choose the voters in their district, rather than allowing the voters to elect their representatives in fair and lawful elections. This practice of gerrymandering has disenfranchised underrepresented communities and diluted their voting power.

ARGUMENTS IN OPPOSITION: In a letter opposing AB 2494, the Kern County Board of Supervisors states, in part, the following:

> It is disturbing that a redistricting process mandated by the State Legislature, on the supposed basis of impartiality and fairness, requires a partisan commission to draw district boundaries for non-partisan supervisorial districts, injects state edicts into local governance in a manner that seems to favor members of its own governing body in seeking local political office, and disenfranchises communities by stripping them of their community identity.

ASSEMBLY FLOOR: 54-20, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Mia Bonta, O'Donnell, Blanca Rubio

Prepared by: Scott Matsumoto / E. & C.A. / (916) 651-4106
8/13/22 12:14:54

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2496
Author: Petrie-Norris (D) and Friedman (D), et al.
Amended: 8/24/22 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 15-0, 6/28/22
AYES: Newman, Bates, Allen, Archuleta, Becker, Cortese, Dodd, Hertzberg, Limón, McGuire, Min, Rubio, Skinner, Wieckowski, Wilk
NO VOTE RECORDED: Dahle, Melendez

SENATE APPROPRIATIONS COMMITTEE: 6-1, 8/11/22
AYES: Portantino, Bates, Bradford, Laird, McGuire, Wieckowski
NOES: Jones

ASSEMBLY FLOOR: 69-0, 5/26/22 - See last page for vote

SUBJECT: Vehicles: exhaust systems

SOURCE: Author

DIGEST: This bill requires a court, beginning January 1, 2027, to notify the Department of Motor Vehicles (DMV) to place a registration hold on a vehicle found to have a noncompliant modified muffler or muffler installed with a whistle tip until the court has been presented with a certificate of compliance from a referee authorized to test the vehicle.

Senate Floor Amendments of 8/24/22 make a technical change to a technical reference.

ANALYSIS:

Existing law:

1) Prohibits a person from modifying the exhaust system of a motor vehicle in a manner that would amplify or increase the noise emitted by the motor vehicle

so that the motor vehicle does not have excessive noise or is equipped with a cutout, bypass or similar device.

2) Allows an officer to issue a written notice containing a violator's promise to correct an alleged violation involving a registration, license, all-terrain vehicle safety certificate, or mechanical requirement in lieu of a ticket unless the officer finds any of the following:

   a) There is evidence of fraud or persistent neglect,

   b) The violation presents an immediate safety hazard,

   c) The violator does not agree to, or cannot, promptly correct the violation; or,

   d) The violation cited is of subdivision (a) of Section 27151 for a motorcycle.

3) Allows a court to dismiss the charges for a corrective ticket if the violator presents, by mail or in person, proof of correction on or before the date on which the violator has promised to appear.

4) Allows a violator to prove they corrected a violation with a proof of correction certificate from the following sources:

   a) The DMV for a violation involving a driver license and registration.

   b) A licensed station or licensed adjuster that is licensed by the Bureau of Automotive Repair for a violation involving a brake, lamp, smog device, or muffler; and,

   c) A police department, the California Highway Patrol (CHP), sheriff, marshal or other law enforcement agency regularly engaged in enforcement of the vehicle code.

5) Authorizes stations providing referee functions to provide for the testing of vehicle exhaust systems and issue certificate of compliance for vehicles issued violations for modified or inadequate mufflers.

6) Authorizes the certificate of compliance to be issued if the vehicle, other than motorcycles, has a gross vehicle weight rating of less than 6,000 pounds and emits no more than 95 weighted decibels when tested in accordance with Society of Automotive Engineers (SAE) standards,

7) Prohibits operation of a motorcycle that does not have a properly labelled exhaust system. Violations are subject to specified fines.

This bill:

1) Requires, beginning January 1, 2027, a court to notify DMV to place a registration hold on a vehicle found to have a noncompliant modified muffler or muffler installed with a whistle tip until the court has been presented with a certificate of compliance from a referee authorized to test the vehicle.

2) Requires, beginning January 1, 2027, stations providing the referee function to provide for the testing of exhaust systems and the issuance of certifications for compliance for motorcycles that have received a citation for modifying a muffler or installing a whistle tip. Those stations shall also provide certifications for compliance for vehicles with a gross vehicle weight rating of between 6,000 and 14,000 pounds that comply with the noise standard established under current law in Section 27204 of the Vehicle Code when tested under current SAE standards.

Comments

1) *Author's statement.* "Noise pollution from illegally modified vehicles is a significant problem in our local communities. AB 2496 will prevent drivers from continuing to operate vehicles with illegally modified exhausts by requiring drivers ticketed for illegal modifications to prove that they have fixed the modification within three months or face a hold on their registration. This will provide our communities with an important tool to reduce noise pollution from intentionally modified vehicles, protecting public health and ensuring a higher quality of life for local residents."

2) *Buy your way out.* The author is concerned that current law, which allows for a fix it ticket, is being rendered ineffective by individuals who elect to pay a higher bail rather than fix the exhaust system. A fix it ticket can be cleared with proof that the equipment violation has been fixed and payment of a $25 fee. It can also be cleared with a payment of a $192.74 fee without fixing the equipment violation. Under this bill an individual would have to fix their exhaust system or else be unable to renew their vehicle registration.

3) *Opposition*. The opponent is concerned about enforcing noise restrictions on motorcycles. They contend that current law and practice, which focusses on ensuring that motorcycles have the proper exhaust system equipment, is

effective. They're concerned that if a motorcycle is cited for a noise violation, there are few places which can test that the motorcycle complies with the law and therefore clear the fix-it ticket.

4) *Can it be done?* The Department of Consumer Affairs is aware of the provisions of this bill. While they take no position on the bill itself, the Department doesn't foresee the provisions being a significant burden on the referee stations, although it expects an increase in volume as the referee stations do not currently test motorcycles. The four year implementation delay of the bill provides time for the industry and agencies to adapt.

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

From the Senate Appropriations Committee:

- DMV indicates that one-time costs to implement this bill by 2027 are not quantifiable at this time because programming will be required on the department's modernized platform, which will not be complete until after the 2025-26 fiscal year. Staff estimates one-time minor to moderate costs, potentially up to the low hundreds of thousands of dollars conduct necessary programming to its modernized vehicle registration systems to provide for a registration hold. (Motor Vehicle Account)

- The Bureau of Automotive Repair (BAR) estimates minor and absorbable costs of approximately $11,000 to develop test specifications and certify updated test equipment to accommodate the testing of motorcycles. BAR indicates that any increased staff costs to test motorcycles would be fully offset by fees charged for inspections. (Vehicle Inspection and Repair Fund)

SUPPORT: (Verified 8/25/22)

Barbary Coast Neighborhood Association
City of Chino Hills
City of Huntington Beach
City of Irvine
City of Laguna Beach
City of Newport Beach
City of Oceanside

OPPOSITION: (Verified 8/25/22)

Abate of California, Inc.

ASSEMBLY FLOOR: 69-0, 5/26/22
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Mike Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Stone, Ting, Valladares, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Arambula, Berman, Flora, Fong, Jones-Sawyer, Mayes, O'Donnell, Seyarto, Villapudua

Prepared by: Randy Chinn / TRANS. / (916) 651-4121
8/26/22 15:47:43

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

SENATE RULES COMMITTEE AB 2509
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2509
Author: Fong (R), et al.
Amended: 8/22/22 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 15-0, 6/14/22
AYES: Gonzalez, Bates, Allen, Becker, Cortese, Dahle, Dodd, Limón, McGuire, Melendez, Min, Newman, Skinner, Wieckowski, Wilk
NO VOTE RECORDED: Archuleta, Rubio

SENATE MILITARY & VETERANS COMMITTEE: 6-0, 6/28/22
AYES: Archuleta, Eggman, Melendez, Newman, Roth, Umberg
NO VOTE RECORDED: Grove

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 76-0, 5/25/22 - See last page for vote

SUBJECT: Vehicles: vehicle license fee and registration fees: exemptions

SOURCE: Author

DIGEST: This bill exempts Purple Heart recipients and their surviving spouse from various vehicle fees.

Senate Floor Amendments of 8/22/22 delay implementation of the fee exemption in the bill until January 1, 2027, and clarify the exemption also applies to the Vehicle License Fee and Transportation Improvement Fee.

ANALYSIS:

Existing law:

1) Waives all vehicle fees, including the vehicle registration fee, the California Highway Patrol (CHP) fee, vehicle license fee, and the Transportation Improvement Fee (TIF), fee for:

a) Disabled veterans.

b) Former American prisoners of war.

c) The surviving spouse of a former American prisoner of war who has elected to retain the special license plates issued under Section 5101.5 of the Vehicle Code.

d) A Congressional Medal of Honor recipient.

e) The surviving spouse of a Congressional Medal of Honor recipient who has elected to retain the special license plates issued under Section 5101.6 of the Vehicle Code.

2) Limits the vehicle fee exemptions for the above parties to no more than one vehicle owned by an American prisoner of war, disabled veteran, Congressional Medal of Honor recipient, or a surviving spouse.

This bill requires the Department of Motor Vehicles (DMV) to waive all vehicle fees, including the vehicle registration fee, the CHP fee, vehicle license fee, and TIF, for Purple Heart recipients and the surviving spouse of a Purple Heart recipient who elect to retain a special license plate, as specified.

Comments

1) *Purpose*. According to the author, "Veterans dedicate their lives to serve our country. They defend the freedoms we enjoy. They fight for us. Veterans leave their families to protect our freedoms. They make sacrifices to serve our country, and when they are injured during their service, they should be afforded every accommodation possible upon returning home. Vehicle registration and license fees are added burdens on veterans that the state can help ease. Waiving DMV license and registration fees will also create consistency amongst other veterans that already have these costs waived."

2) *Vehicle Fees and Purple Heart Recipients*. Current law allows Purple Heart recipients to apply for a specialized license. However, unlike disabled veterans, former American prisoners of war and Congressional Medal of Honor recipients, Purple Heart recipients are not eligible for vehicle fee waivers. Surviving spouses of Purple Heart recipients are currently not eligible for vehicle fee waivers, inconsistent with the exemptions for surviving spouses of former American prisoners of war and Congressional Medal of Honor recipients.

3) *Potential Impact.* Supporters of this bill argue that due to the small number of covered veterans, this bill's impact on revenues from vehicle registration fees would be de minimis. Veterans receive similar small benefits, such as discounted fishing licenses and free admission to California state parks. Unlike programs that enhance veterans' access to education, health care, housing, or employment, these small benefits do not substantively improve veterans' opportunities or quality of life.

   However, these waivers do deprive public agencies of funds. While any such benefit taken in isolation may seem de minimis, the more that are permitted, the greater the cost to the rest of California's citizens, who must make up the difference. The DMV estimates that there are currently over 5,506 Purple Heart plates in circulation. The DMV forecasts that there would be a $1.4 million loss to the Motor Vehicle Account (MVA). Thus, this exemption could pose a significant revenue loss for the state.

4) *MVA Concerns*. The MVA which is the primary funding source for DMV and CHP has been on the brink of insolvency for many years. The current estimates from the Department of Finance show that it is solvent, but only barely and because most capital outlay costs have been shifted from the MVA, where they were historically funded from, to the General Fund. Any lost revenue associated with implementing this bill would potentially contribute towards the insolvency of the MVA and potentially negatively impact DMV and CHP.

Related/Prior Legislation

SB 1259 (Runner, 2016) would have exempted veterans with specialized license plates to be exempt from toll payments. The bill died in the Assembly at the request of author.

SB 386 (Cogdill, Chapter 357, Statutes of 2007) extended vehicle registration exemptions to surviving spouses of former American prisoners of war and Congressional Medal of Honor recipients.

AB 160 (Cogdill, 2005) would have extended vehicle registration exemptions to surviving spouses of former American prisoners of war and Congressional Medal of Honor recipients. The bill was held on suspense in the Senate Appropriations Committee.

AB 279 (Cohn, Chapter 201, Statutes of 2004) allowed the un-remarried, surviving spouse of a person issued Purple Heart special license plates to retain the special plates upon the death of a Purple Heart recipient.

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

According to the Senate Appropriations Committee:

- DMV indicates that costs to provide for exempt registration for new applicants for a Purple Heart special license plate would be minor because it can assign existing fee codes for those vehicle registration records. Costs to revise vehicle registration records for 5,506 existing Purple Heart plate holders to allow for the fee exemptions are unknown, but potentially significant, to the extent programming is required. See staff comments for a discussion of the current challenges regarding DMV's IT systems upgrades that drive abnormally high costs. (MVA)

- DMV estimates the following annual revenue losses (foregone revenues) as a result of the vehicle registration fee exemption, based on the 5,506 vehicles that currently have Purple Heart specialized license plates:

  - $357,890 from the general $65 registration fee. (MVA)

  - $159,674 from the $29 CHP fee. (MVA)

  - $512,058 from the VLF, based on the average VLF amount of $93 charged for automobile registrations. (Local Revenue Fund, allocated to cities and counties)

  - $385,420 from TIF, based on the average amount of $70 charged for automobile registrations. (Road Maintenance and Rehabilitation Account or RMRA).

  - Unknown minor fee revenues associated with certain special fees that vary by county and air quality district (local revenues), as well as minor revenues associated with the $100 Road Improvement Fee, which applies to electric vehicles with a model year of 2020 or newer (RMRA)

  Staff notes that these revenue losses could be higher, to the extent Purple Heart recipients who are not specialized license plate holders seek the fee exemption.

SUPPORT: (Verified 8/18/22)

California Association of County Veterans Service Officers
California State Commanders Veterans Council
County of Monterey

OPPOSITION: (Verified 8/18/22)

None received

ARGUMENTS IN SUPPORT: According to the California Association of County Veterans Service Officers and California State Commanders Veterans Council, "Veterans who have served our country and are injured during their service should be afforded every accommodation possible upon returning home. Vehicle registration and license fees are added burdens on injured veterans.

"Specifically, AB 2509 extends the registration fee and vehicle license fee exemptions provided to disabled veterans, former American prisoners of war, and Congressional Medal of Honor recipients."

ASSEMBLY FLOOR: 76-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Katie Bonin / TRANS. / (916) 651-4121
8/23/22 13:23:10

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

SENATE RULES COMMITTEE AB 2510
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2510
Author: Wilson (D) and Bennett (D)
Amended: 8/22/22 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 17-0, 6/28/22
AYES: Newman, Bates, Allen, Archuleta, Becker, Cortese, Dahle, Dodd, Hertzberg, Limón, McGuire, Melendez, Min, Rubio, Skinner, Wieckowski, Wilk

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 74-0, 5/25/22 - See last page for vote

SUBJECT: Vehicles: driver's licenses

SOURCE: Author

DIGEST: This bill waives the driver's license renewal fee for a person experiencing homelessness.

Senate Floor Amendments of 8/22/22 delay the implementation until January 1, 2027.

ANALYSIS:

Existing law:

1) Requires a person who drives a vehicle upon a highway to have a valid driver's license (DL).

2) Prescribes specified fees that shall be collected by the Department of Motor Vehicles (DMV) for the issuance and renewal of a driver's license.

3) Waives the identification card (ID) fee for unhoused persons.

This bill:

1) Waives the DL fee for a homeless person, as defined.

2) Defines "homeless person" the same as a homeless person under the federal McKinney-Vento Homeless Assistance Act, which includes the following:

   a) An individual or family who lacks a fixed, regular, and adequate nighttime residence.

   b) An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground.

   c) An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including hotels and motels paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, congregate shelters, and transitional housing).

3) Defines a "homeless services provider" as:

   a) A governmental or nonprofit agency receiving federal, state, or county or municipal funding to provide services to a "homeless person" or "homeless child or youth," or that is otherwise sanctioned to provide those services by a local homeless continuum of care organization.

   b) An attorney licensed to practice law in this state.

   c) A local educational agency liaison for homeless children and youth designated as such pursuant to Section 11432 (g)(1)(J)(ii) of Title 42 of the United States Code, or a school social worker.

   d) A human services provider or public social services provider funded by the State of California to provide homeless children or youth health services, mental or behavioral health services, substance use disorder services, or public assistance or employment services.

   e) A law enforcement officer designated as a liaison to the homeless population by a local police department or sheriff's department within the state.

f) Any other homeless services provider that is qualified to verify an individual's housing status, as determined by the department.

4) Becomes effective on January 1, 2027.

Comments

1) *Purpose*. According to the author, "it is important that individuals who are experiencing homelessness are protected and have resources to guide them toward stability. They deserve access to the same resources and opportunities that they would have if they weren't homeless. This includes access to an updated driver's license, which, if were expired, could result in accrued parking violations and unaffordable car towing fees. Safe Parking Santa Barbara has made significant progress in helping individuals avoid violations and towing fees by giving them a safe place to park their cars overnight. AB 2510 aims to further support homeless individuals by waiving the fees associated with renewing a driver's license. Having a current driver's license would allow these individuals to apply for jobs and take the steps necessary to improve their lives."

2) *Need for this bill*. An individual experiencing homelessness needs a DL for the same reasons that a housed person needs a DL. This includes access to benefits and services and to prove who they are. Housed individuals generally do not leave their homes without their DL card, especially if they will be operating a vehicle on a California roadway. Yet, many individuals experiencing homelessness cannot afford the DL fee, which at $39 is nearly one-fourth of the monthly allowance the state provides to a single low income individual under CalFresh benefits for food.

   AB 1733 (Quirk Silva, Chapter 764, Statutes of 2014) created a process for DMV to waive the fee for an ID card for homeless individuals. Having an identification card is imperative in accessing services and benefits. However, a DL is far more useful as it not only opens the doors for public benefits including CalFresh and SSI, it permits the holder to explore employment opportunities which could further aid them in escaping poverty by obtaining a job.

   According to the Legislative Analyst's Office, California now has an estimated 151,000 people experiencing homelessness, more than any other state in the nation. Similarly, according to the Homeless Policy Research Institute, 27% of

the national homeless population is in California. 72% of those who are homeless in California are also unsheltered, the highest share of unsheltered homeless of any state. In fact, half of the people experiencing unsheltered homelessness reside in California.

According to a survey from the National Law Center on Homelessness and Poverty, in a given month in 2004, 54% of homeless people without photo ID were denied access to shelters or housing services, 53% were denied food stamps, and 45% were denied access to Medicaid or other medical services. These unsettling numbers make it imperative to help facilitate access to services and benefits for individuals experiencing homelessness. AB 2510 attempts to remove another fiscal barrier so that an individual experiencing homelessness may renew their DL without paying the $39 fee.

Waiving the DL renewal fee for a person experiencing homelessness is consistent with other actions taken by the Legislature this year. Specifically, AB 1685 (Bryan, 2022 – pending on the Senate Floor) requires processing agencies to forgive at least $1,500 in parking tickets for individuals who are verified to be homeless. Likewise, AB 2775 (Quirk-Silva, 2022 – pending on the Senate Floor) permits a person who has been verified to be experiencing homelessness to waive payment of their vehicle registration fees.

3) *How Many*? According to the DMV, the DMV has issued the following number of ID cards for unhoused individuals:

   a) 2016 – 60,908
   b) 2017 – 105,283
   c) 2018 – 121,676
   d) 2019 – 137,888
   e) 2020 - 75,314
   f) 2021 – 100,721
   g) 2022 – 39,049 (through April)

4) *Delayed Implementation*. The implementation date of the bill is delayed until January 1, 2027 due to DMV's preference that any new requirements be delayed until after their computer system upgrades are completed. Many other bills establishing new requirements on the DMV have a similar delayed implementation date.

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

According to the Senate Appropriations Committee:

- DMV indicates that one-time costs to implement this bill by 2027 are not quantifiable at this time because programming will be required on the department's modernized platform, which will not be complete until after the 2025-26 fiscal year. Staff estimates one-time minor to moderate costs, potentially up to the low hundreds of thousands of dollars in 2026-27, to promulgate regulations and conduct necessary IT system programming to account for waiving fees for a driver's license renewal for eligible homeless persons. (Motor Vehicle Account)

- Unknown annual revenue losses (foregone revenues), beginning in 2026-27, as a result of the reduced collection of driver's license renewal fees. Actual revenue losses would depend upon the number of homeless persons who hold driver's licenses that are expiring in a given year, and are verified as eligible for the fee waiver. Absent reliable data, these costs are unquantifiable, but for illustrative purposes, for every 10,000 persons eligible for a renewal fee waiver in a given year, the bill would result in revenue losses of $390,000. Revenue losses may exceed $1 million annually. Since driver's license fees are adjusted annually for inflation, the revenue losses would likely increase each year. (Motor Vehicle Account)

- Ongoing annual DMV administrative costs beginning in 2026-27, primarily for field office time to verify applicant eligibility for fee waivers, are expected to be minor and absorbable. (Motor Vehicle Account)

SUPPORT: (Verified 8/23/22)

None received

OPPOSITION: (Verified 8/23/22)

None received

ASSEMBLY FLOOR: 74-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine,

Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Berman, Gallagher, Kiley, O'Donnell

Prepared by: Randy Chinn / Katie Bonin / TRANS. / (916) 651-4121
8/23/22 15:10:26

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

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THIRD READING

Bill No: AB 2516
Author: Aguiar-Curry (D)
Amended: 8/22/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 8-1, 6/29/22
AYES: Pan, Eggman, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NOES: Grove
NO VOTE RECORDED: Melendez, Gonzalez

SENATE APPROPRIATIONS COMMITTEE: 5-1, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Jones
NO VOTE RECORDED: Bates

ASSEMBLY FLOOR: 62-0, 5/25/22 - See last page for vote

SUBJECT: Health care coverage: human papillomavirus

SOURCE: Author

DIGEST: This bill requires health insurance coverage without cost-sharing for the human papillomavirus vaccine (HPV), and, includes HPV as a covered benefit in the Family Planning, Access, Care, and Treatment program (Family PACT).

Senate Floor Amendments of 8/22/22 are nonsubstantive and correct a chaptering out issue with several other bills.

ANALYSIS:

Existing law:

1) Establishes the Department of Managed Health Care (DMHC) to regulate health plans under the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act); California Department of Insurance (CDI) to regulate health and other insurance; and, the Department of Health Care Services (DHCS) to administer the Medi-Cal program. [HSC §1340, et seq., INS §106, et seq., and

WIC §14000, et seq.]

2) Requires nongrandfathered health plan contracts and insurance policies, at a minimum to provide coverage for and prohibits any cost-sharing requirements for several preventive services including, but not limited to evidence-based items or services that have in effect a rating of "A" or "B in the recommendations of the United States Preventive Services Task Force and immunizations that have in effect a recommendation from the Advisory Committee Immunization Practices (ACIP) of the Centers for Disease Control and Prevention. Nongrandfathered refers to coverage post the enactment of the Affordable Care Act (ACA). [HSC §1367.002 and INS §10112.2]

3) Establishes, at DHCS, the Family PACT, which provides comprehensive clinical family planning services to any person who has family income at or below 200% of the federal poverty level, as revised annually, and who is eligible to receive these services pursuant to a waiver of federal law, as specified. [WIC § 14132aa]

This bill:

1) Requires a health plan contract, except for a specialized health plan, and a disability insurance policy that provides coverage for hospital, medical, or surgical benefits issued, amended, or renewed on or after January 1, 2023, to provide coverage for HPV for enrollees for whom the vaccine is approved by the federal Food and Drug Administration (FDA). Prohibits a health plan contract or health insurance policy from imposing a deductible, coinsurance, copayment, or any other cost-sharing requirement on the coverage provided pursuant to this bill.

2) Adds to Family PACT benefits coverage for the HPV vaccine for persons for whom it is approved by the FDA.

Comments

According to the author, the HPV vaccine can prevent cancer and save lives. It protects against nine variants of the virus and is expected to prevent more than 90% of HPV-related cancers. This essential healthcare service should be accessible to all eligible Californians. We must continue to increase awareness and education, all while reducing any and all cost barriers. This bill will ensure that every patient who wants to receive the HPV vaccine can access it without cost.

California Health Benefits Review Program (CHBRP) analysis. AB 1996 (Thomson, Chapter 795, Statutes of 2002) requests the University of California to assess legislation proposing a mandated benefit or service and prepare a written analysis with relevant data on the medical, economic, and public health impacts of proposed health plan and health insurance benefit mandate legislation. CHBRP was created in response to AB 1996, and reviewed this bill. Key findings include:

1) *Coverage impacts and enrollees covered*. CHBRP estimates that, at baseline, 99.6% of enrollees in DMHC-regulated plans and CDI-regulated policies have coverage of the HPV vaccine without cost sharing. Enrollees without coverage or coverage with cost sharing for the HPV vaccine have DMHC-regulated plans or CDI-regulated policies that are "grandfathered" under the provisions of the ACA, and so are able to retain cost sharing for vaccinations. Postmandate, 100% of enrollees would have coverage for HPV vaccines with no cost sharing.

2) *Medical effectiveness.* CHBRP examined literature on the clinical effectiveness of the HPV vaccine for preventing HPV-related cancers and HPV-related genital warts in both females and males. CHBRP found there is: Clear and convincing evidence that the HPV vaccine is effective at preventing high-grade cervical intraepithelial neoplasia, adenocarcinoma in situ, and cervical cancer for females vaccinated at age 26 or younger, and at preventing HPV-related anogenital warts for both females and males vaccinated at age 26 or younger. A preponderance of evidence that the HPV vaccine is effective at preventing HPV-related anogenital disease for males vaccinated at age 26 or younger. Limited evidence that the HPV vaccine is effective at preventing cervical lesions for females vaccinated at age 27 or older. Insufficient evidence that the HPV vaccine is effective at preventing oral or oropharyngeal HPV infections for females and males vaccinated at any age, as well as for preventing genital warts for females males vaccinated at age 27 or older.

3) *Utilization*. At baseline, there are 120.9 HPV vaccine shots per 1,000 female enrollees aged 9 to 26 years, and there are 113 HPV vaccines per 1,000 male enrollees aged 9 to 26 years. Among those aged 27 to 45 years, there are 6.1 HPV vaccines per 1,000 female enrollees and 4.4 HPV vaccines per 1,000 male enrollees. Postmandate, utilization for females and males aged 9 to 26 years would increase slightly, as the utilization rate for the 0.4% of enrollees in DMHC-regulated plans or CDI-regulated policies who previously had cost sharing would increase to match those who did not have cost sharing at baseline. CHBRP estimates that the resulting new average utilization would increase by 1.5 per 1,000 enrollees from 120.9 to 122.3 for females aged 9 to 26

years and by 1.3 from 113 to 114.4 for males aged 9 to 26 years. CHBRP estimates that the change in benefit coverage and reduction in cost sharing for those aged 27 to 45 years would result in no measurable impact on utilization since the medical guidelines for shared clinical decision-making will keep utilization down to those who are both medically eligible and want to obtain the series of HPV vaccination shots. Postmandate, the average utilization rate for the HPV vaccine for both males and females aged 27 to 45 years will have no measurable change. Among enrollees with coverage at baseline, cost sharing was present for 0.7 vaccine injections per 1,000 females aged 9 to 26 years, 1.1 vaccines per 1,000 males aged 9 to 26 years, 0.1 vaccines per 1,000 females aged 27 to 45 years, and 0.2 vaccines per 1,000 males aged 27 to 45 years. Postmandate, no enrollees would have cost sharing for HPV vaccine shots. This equates to approximately 9,400 vaccine shots that had cost sharing for HPV vaccines at baseline.

4) *Medi-Cal.* Medi-Cal provides coverage without cost sharing for the HPV vaccine at baseline. As such, no impact on this population by this bill is projected.

5) *Impact on expenditures*. This bill increases total net annual expenditures by $3,834,000 or 0.0026% for enrollees with DMHC-regulated plans and CDI-regulated policies. This is due to a $3,975,000 increase in total health insurance premiums paid by employers and enrollees for newly covered benefits, adjusted by a decrease of $141,000 in enrollee expenses for covered and/or noncovered benefits. Changes in expenditures are due to (1) a shift of cost sharing for enrollees with cost sharing at baseline to no cost sharing postmandate and (2) new utilization of the HPV vaccine. For enrollees with cost sharing at baseline, average annual out-of-pocket expense reductions range between $102 and $262. Cost sharing amounts are dependent upon an enrollee's plan or policy design. For the enrollees with cost sharing, on average, 81% is due to deductible, 17% is due to coinsurance, and 2% is due to copayments.

6) *Public health.* In the first year postmandate, CHBRP projects this bill will have no measurable impact on public health. Postmandate, approximately 4,078 additional vaccinations would occur among male enrollees and 4,367 additional vaccinations would occur among female enrollees aged 9 to 26 years because of increased coverage and reduced cost sharing. Although the HPV vaccine is found to be medically effective, CHBRP concludes that passage of this bill would have no measurable short-term public health impact due to minimal change in overall utilization and lack of manifest of vaccine effects in the short

term. For this reason, CHBRP also concludes that this bill would have no measurable impact on disparities in vaccination status or health outcomes (by sex, race/ethnicity, or sexual orientation/gender identity). It also would have no measurable impact on premature death and societal economic losses. At the person level, one potentially detectable vaccine impact in the first year following vaccination would be a potential reduction in genital warts. While elimination of cost sharing eliminates a barrier for a small group of enrollees who currently are subject to cost sharing, other barriers to HPV vaccination may continue to persist postmandate. These may include prior authorization requirements, transportation issues to complete the entire vaccine series, parental disagreement about whether or not a minor enrollee should receive the vaccine, or individual decisions not to receive the vaccine.

7) *Essential health benefits (EHBs)*. The HPV vaccine is currently covered by California's EHB benchmark plan and is recommended by ACIP. Therefore, this bill appears not to exceed the definition of EHBs in California.

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

According to the Senate Appropriations Committee:

- DHCS estimates total costs of $8 million ($4.6 million General Fund and $3.4 million federal funds) to include coverage of the HPV vaccine in Family PACT.

- Minor and absorbable costs to DMHC and CDI.

SUPPORT: (Verified 8/22/22)

American College of Obstetricians and Gynecologists District IX
American Society for Reproductive Medicine
Association for Clinical Oncology
California Academy of Family Physicians
California Life Sciences
California Medical Association
Color Health
County Health Executives Association of California
Medical Oncology Association of Southern California
NARAL Pro-Choice California
Planned Parenthood Affiliates of California
Protect US
Teens for Vaccines
University of California

OPPOSITION: (Verified 8/22/22)

America's Health Insurance Plans
Association of California Life and Health Insurance Companies
California Association of Health Plans

ARGUMENTS IN SUPPORT: The American College of Obstetricians and Gynecologists District IX (ACOG) writes that under the ACA, private insurers are required to cover vaccinations recommended by the Center for Disease Control's ACIP, which includes the HPV vaccine. While many comprehensive health insurers will cover the HPV vaccine, some do not provide it or require patients to cover up to the full cost of more than $250 per dose. The amount paid by the patient is influenced by many factors, but most often is determined by the provider and insurance coverage. The uninsured and underinsured are most vulnerable to a lack of access to the vaccine or face higher co-pays which can be barriers to taking advantage of the HPV vaccine. Even when there are public programs available to assist with cost, those programs depend upon continued state or federal funding. Vaccinating against HPV is incredibly important, as it is known for high morbidity and mortality in women and men. HPV vaccines are among the most effective vaccines available worldwide, with unequivocal data demonstrating greater than 99% efficacy when administered to women who have not been exposed to that particular type of HPV. ACOG strongly recommends HPV vaccination to eligible patients and stress the benefits and safety of the HPV vaccine.

The Medical Oncology Association of Southern California and the Association for Clinical Oncology write that receiving an HPV vaccine is the most effective way of protecting against HPV-related cancers. According to a 2016 Policy Statement on HPV for Cancer Prevention by their affiliate, the American Society of Clinical Oncology, cervical cancer is the most prevalent HPV-related cancer and the fourth most common cancer in women. HPV-related cancers seem to disproportionately affect lower income patients; the incidence rate of cervical cancer is higher in Hispanic and African American women than in white women. HPV vaccines are extremely effective; according to studies, they can protect against nine variants and are believed to prevent more than 90% of HPV-related cancers. However, only approximately 36% of girls and 14% of boys have received all three doses of the HPV vaccine. Lowering financial barriers to the vaccine can improve uptake.

ARGUMENTS IN OPPOSITION: The California Association of Health Plans, the Association of California Life and Health Insurance Companies, and America's Health Insurance Plans state that this bill, taken together with AB 1859 (Levine, related to mental health treatment) and AB 2024 (Friedman related to breast

imaging), will increase premiums on Californians by nearly $123 million. California has been a national leader in maintaining a stable market despite rising costs and uncertainty at the federal level over the individual and employer market. Opponents write that now is not the time to inhibit competition with proscriptive mandates that reduce choice and increase costs. California needs to protect the coverage gains made and stay focused on the stability and long-term affordability of our health care system. Benefit mandates impose a one-size-fits-all approach to medical care and benefit design driven by the legislature, rather than consumer choice. State mandates increase costs of coverage especially for families who buy coverage without subsidies, small business owners who cannot or do not wish to self-insure, and California taxpayers who foot the bill for the state's share of those mandates. These bills will lead to higher premiums, harming affordability and access for small businesses and individual market consumers.

ASSEMBLY FLOOR: 62-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Bigelow, Chen, Choi, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Nguyen, O'Donnell, Patterson, Seyarto, Smith, Voepel

Prepared by: Teri Boughton / HEALTH / (916) 651-4111
8/23/22 15:11:41

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

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THIRD READING

Bill No: AB 2517
Author: Mia Bonta (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 4-0, 6/20/22
AYES: Hurtado, Jones, Cortese, Pan
NO VOTE RECORDED: Kamlager

SENATE APPROPRIATIONS COMMITTEE: 6-0, 8/11/22
AYES: Portantino, Bradford, Jones, Laird, McGuire, Wieckowski
NO VOTE RECORDED: Bates

ASSEMBLY FLOOR: 67-0, 5/25/22 - See last page for vote

SUBJECT: California Coordinated Neighborhood and Community Services Grant Program

SOURCE: California Cradle to Career Coalition
California Promise Neighborhood Network
End Child Poverty in California
GRACE
StriveTogether

DIGEST: This bill, the It Takes a Village Act, creates the California Coordinated Neighborhood and Community Services Grant Program. Subject to an appropriation, this bill requires the California Department of Social Services (CDSS) or another department to fund competitive grants to nonprofit organizations, tribes or tribal organizations, or institutions of higher education, which, together with local educational and social service agencies, would plan and implement a comprehensive, integrated continuum of cradle-to-career solutions at the neighborhood level.

Senate Floor Amendments of 8/25/22 require the California Department of Education (CDE) to consult with CDSS in the development of a core set of

academic results and indicators by which grant recipients will be measured, and make other technical changes.

ANALYSIS:

Existing law:

1) Establishes the federal Promise Neighborhood program, which provides grants to nonprofit organizations, tribal organizations, or institutions of higher education, which, together with partners, develop and implement plans to significantly improve outcomes of children living in a given neighborhood. *(20 United States Code 7274))*

2) Establishes the "California Cradle-to-Career Data Systems Act," which expresses legislative intent to build a data system that identifies and tracks predictive indicators to enable parents, teachers, health and human services providers, and policymakers to provide appropriate interventions and supports to address disparities in opportunities and improve outcomes for all students. (*Education Code* 10850 *et seq.*)

This bill:

1) Makes various findings and declarations relative to the need to ensure that children and families, especially those in economically disadvantaged communities, have full access to opportunities and services from before birth to career; the ability of neighborhood-based and regional-based networks to improve social outcomes; and the role that community and regional networks can play in recovery from the pandemic.

2) Establishes the California Coordinated Neighborhood and Community Services Grant Program, administered by the California Department of Social Services (CDSS) or another department within the California Health and Human Services Agency (CHHS), as designated by the Secretary of CHHS. The purpose of the grant program is to award competitive grants to eligible entities to do either of the following:

    a) Implement a comprehensive, integrated continuum of cradle-to-career solutions at the neighborhood level; or,

    b) Support the civic infrastructure and backbone of cradle-to-career networks to accomplish systems change.

3) Requires grants to be awarded to eligible entities that are Promise Neighborhoods, other community-based networks, or multi-neighborhood, regional cradle-to-career networks. Eligible entities include a nonprofit organization, public or nonprofit institution of higher education, or an Indian tribe or tribal organization. Eligible entities are required to work in partnership with at least one local educational agency and one social service agency located within the identified geographic boundaries.

4) Requires solutions funded by the grant program to include academic, health, social programs, and family and community supports identified by a needs assessment or indicators such as poor health for children; disparity gaps in school performance based on income or racial or ethnicity disaggregation; high rates of juvenile delinquency, adjudication, or incarceration; or high rates of foster care placement.

5) Requires an applicant to identify solutions that tackle systemic inequities and work toward community transformation.

6) Requires the department, in consultation with the California Department of Education (CDE), to develop an application process for eligible entities to apply for the grants.

7) Requires the department to aim to achieve geographic equity by giving priority to applicants serving remote communities, including rural and tribal communities, through the selection process.

8) Specifies information which an applicant must include in their application for a grant, including: plans to improve academic, health, and social outcomes for children living in an identified economically disadvantaged neighborhood; short- and long-term goals for each year of the grant; an analysis of neighborhood needs and assets; a detailed data plan; and an explanation of how the applicant will evaluate and improve the continuum of cradle-to-career solutions, among other information.

9) Requires an applicant, before receiving a grant, to perform an analysis of community assets available to the neighborhood, such as early learning and after school programs, community centers, and parks, as provided.

10) Requires an applicant to submit a preliminary memorandum of understanding, signed by each partner entity, which includes each partner's commitment and contribution to planning and implementing a comprehensive, integrated continuum of cradle-to-career solutions at the neighborhood level, including an

aligned theory of improvement and a proposed data governance plan, among other things.

11) Requires the department, for the 2023-24 through 2025-26 fiscal years, to competitively award grants as follows:

    a) Planning grants to Promise Neighborhoods or similar community-based networks and neighborhood regional cradle-to-career networks over three fiscal years.

    b) Implementation grants to Promise Neighborhoods or similar community-based networks and multi-neighborhood regional cradle-to-career networks over three fiscal years.

12) Requires each grantee to contribute a 100 percent match, or at least a 50 percent match for a Promise Neighborhood or other community-based network located in a rural or tribal community, as provided.

13) Requires each implementation grant recipient to use the funds to implement cradle-to-career services based on results of the needs analysis described in the application and plans to build system and organizational capacity; and to continuously evaluate and improve the program based on data and outcomes.

14) Requires grantees developing new or expanded longitudinal data systems to coordinate and align their data collection and reporting with the Cradle-to-Career Data System.

15) Requires the department to establish performance standards to measure progress on indicators and results used to evaluate the grant program.

16) Requires CDE, in consultation with CDSS, to establish a core set of academic results and indicators by which the grant recipients will be measured, as provided.

17) Requires the department to establish a core set of family and community support results and indicators by which the grant recipient will be measured, as provided.

18) Requires the department, in consultation with CDE, to establish at least two indicators related to health, social and emotional development, mental health, and wellness, as provided.

19) Requires each grant recipient to prepare and submit an annual report to the department that includes information regarding the number and percentage of children, family members, and community members served by the grant recipient, as specified.

20) Requires the department, in consultation with CDE, to establish an appropriate method for grant management, including contracting with other entities, as provided.

21) Makes implementation subject to appropriation in the Annual Budget Act.

22) Creates definitions for the purpose of implementing these provisions.

Background

Promise Neighborhoods. Promise Neighborhoods are a holistic, place-based approach to reducing poverty and improving economic, social, and academic outcomes in disadvantaged communities by developing "cradle to career" solutions that support children and families.

Federal Promise Neighborhood Initiative. In 2010, the United States Department of Education implemented the Promise Neighborhoods program, with the vision of significantly improving the educational and developmental outcomes of children in impoverished communities. With the second round of federal grants, three cities in California—Fresno, San Diego, and Hayward—became the first in the state to be awarded funding to develop Promise Neighborhoods.

According to the California Lifting Children and Families out of Poverty Task Force Report, data from the Hayward Promise Neighborhood showed that their services contributed to the significant improvement of graduation rates at Hayward High School, from 76 percent in 2011 to 89 percent in 2016. In addition, LA Promise Neighborhood high schools have more than doubled the proportion of students who graduate high school "college ready" (meeting admission requirements for the UC/CSU system) from 31 percent in 2013 to 68 percent in 2017.

This bill establishes the California Coordinated Neighborhood and Community Services Grant Program, administered by CDSS, modeled after the federal Promise Neighborhoods program.

Pursuant to AB 178 (Committee on Budget, Chapter 45, Statutes of 2022), the Legislature allocated $12 million to support existing Promise Neighborhoods in Chula Vista, Corning, Hayward, and Mission.

Comments

According to the author:

> A strong understanding of the community and regional context, as well the effective coordination of services and supports aligned with the needs of the community, are essential to achieving better outcomes for children and families at every stage of life – from cradle to career. Over the last 10 years, Promise Neighborhoods, Cradle to Career (C2C) networks, and similar entities have worked in disadvantaged communities. Utilizing a place-based, equity-focused approach, these networks coordinate services and supports across the public and private sectors and collect and share data to maximize the efficiency and efficacy of programming. Areas where these networks have operated have seen substantial improvements in healthcare access, literacy, and college and career readiness, as well as reduced child welfare and juvenile justice involvement. To scale these proven cradle to career solutions, the state must invest in the "It Takes A Village" strategy.

(NOTE: See the Senate Human Services Committee analysis for detailed background of this bill.)

Related/Prior Legislation

AB 932 (Levine, 2021) would have established the Cradle to Career Grant Program to administer public and private funds to address child poverty and achievement gaps in California children. AB 932 was held on the Assembly Appropriations Committee suspense file.

AB 686 (Allen, 2019) would have enacted the California Promise Neighborhoods Act of 2019, which would provide grants, administered by the Department of Education, to implement a comprehensive integrated continuum of cradle-to-college-to-career solutions, including academic, health, and social programs. AB 686 was set to be heard in the Assembly Education Committee, but the hearing was canceled at the request of the author.

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

According to the Senate Appropriations Committee:

- Unknown General Fund cost pressures, likely in the tens of millions of dollars, to fund the grants proposed in this bill.

- CDSS estimates General Fund costs, likely several million dollars, for state operations which would include costs for a contractor.

- CDE estimates costs for state operations, at least hundreds of thousands of dollars.

SUPPORT: (Verified 8/25/22)

California Cradle to Career Coalition (co-source)
California Promise Neighborhood Network (co-source)
End Child Poverty in California (co-source)
GRACE (co-source)
StriveTogether (co-source)
Alameda County Board of Supervisors
Alameda County Early Care and Education Planning Council
Barrio Logan College Institute
Barrio Station
Black Wellness & Prosperity Center
Bright Futures Education Partnership
California Alliance of Child and Family Services
California Catholic Conference
California Forward Action Fund
Calviva Health
Casa Familiar
Central Coast Early Childhood Advocacy Network
Central Valley Community Foundation
Central Valley Higher Education Consortium
City of Hayward
City of Oakland
Coalinga Huron Unified School District
Community Action Marin
Community Child Care Council (4CS) of Alameda County
Comprehensive Youth Services
County of Fresno
County of San Diego
Democratic Club of Claremont
Department of Education and Community Outreach at the Division of Extended Studies, UC San Diego
Easterseals Central California
Eden Youth and Family Center
El Monte Promise Foundation

Every Neighborhood Partnership
First 5 Alameda County
First 5 Fresno County
First 5 LA
First 5 Monterey County
Fresno City College
Fresno County Board of Supervisors
Fresno County Superintendent of Schools
Fresno Cradle to Career
Fresno Economic Opportunities Commission
Fresno Unified School District
Hayward Unified School District
Instituto Familiar De LA Raza
LA Familia Counseling Service
Live Oak Cradle to Career
Logan Heights Community Development Corporation
Marin Community College District
Microsoft Corporation
Mission Economic Development Agency
Mission Graduates
Mission Neighborhood Centers, Inc.
National Association of Social Workers, California Chapter
North State Together
Oakland Promise
Parents for Public Schools of San Francisco
Parlier Unified School District
Reading and Beyond
Salinas Union High School District
Salinas Valley Memorial Healthcare System
San Diego County Supervisor Nora Vargas
San Ysidro Health
Sanger Unified School District
SBCS Strengthening Communities
Shields for Families
Showing Up for Racial Justice, Marin
Tandem, Partners in Early Learning
The Children's Initiative
The Children's Movement of Fresno
The Jamestown Community Center
Tiburcio Vasquez Health Center, Inc.

United Way Fresno Madera Counties
United Way Monterey County
Urban Services YMCA

OPPOSITION: (Verified 8/25/22)

None received

ASSEMBLY FLOOR: 67-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Daly, Davies, Flora, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Bigelow, Megan Dahle, Fong, Gallagher, Kiley, Mathis, O'Donnell, Seyarto, Smith, Voepel

Prepared by: Elizabeth Schmitt / HUMAN S. / (916) 651-1524
8/26/22 15:47:44

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

SENATE RULES COMMITTEE AB 2524
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2524
Author: Kalra (D), et al.
Amended: 8/24/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-0, 6/22/22
AYES: Cortese, Durazo, Laird, Newman
NO VOTE RECORDED: Ochoa Bogh

SENATE JUDICIARY COMMITTEE: 9-1, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, McGuire, Stern, Wieckowski, Wiener
NOES: Jones
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 56-19, 5/25/22 - See last page for vote

SUBJECT: Santa Clara Valley Transportation Authority: employee relations

SOURCE: American Federation of State, County and Municipal Employees

DIGEST: This bill transfers jurisdiction over labor disputes between the Santa Clara Valley Transportation Authority (the VTA) and its employees to the Public Employment Relations Board (PERB).

Senate Floor Amendments of 8/24/22 (1) clarify that the union's selection of PERB jurisdiction over unfair labor practices (ULPs) is irrevocable for the respective bargaining unit; (2) require the union to file notification of its selection for PERB jurisdiction with PERB's general counsel, or designee, and serve notice to one or more of the following: (a) the VTA's general manager, CEO, or the equivalent, (b) the VTA's general legal counsel, or the equivalent, or (c) to the VTA pursuant to

applicable regulations; (3) clarify that *if the union makes a selection for PERB jurisdiction* of ULPs, then PERB has exclusive jurisdiction of the initial determination as to whether the ULP charge is justified and, if so, the appropriate remedy; and (4) make minor grammatical changes.

ANALYSIS:

Existing law:

1) Governs collective bargaining in the private sector under the federal National Labor Relations Act (NLRA) but leaves to the states the regulation of collective bargaining in their respective public sectors. While the NLRA and the decisions of its National Labor Relations Board (NLRB) often provide persuasive precedent in interpreting state collective bargaining law, public employees generally have no collective bargaining rights absent specific statutory authority establishing those rights (29 United State Code § 151 et seq.).

2) Provides several statutory frameworks under California law to provide public employees collective bargaining rights, govern public employer-employee relations, and limit labor strife and economic disruption in the public sector through a reasonable method of resolving disputes regarding wages, hours and other terms and conditions of employment between public employers and recognized public employee organizations or their exclusive representatives. These include the Meyers-Milias-Brown Act (MMBA) which provides for public employer-employee relations between local government employers and their employees, including some, but not all public transit districts. (Government Code § 3500 et seq.)

3) Establishes PERB, a quasi-judicial administrative agency charged with administering certain statutory frameworks governing employer-employee relations, resolving disputes, and enforcing the statutory duties and rights of public agency employers and employee organizations, but provides the City and County of Los Angeles, respectively, local alternatives to PERB oversight. (GC § 3541)

4) Does not cover California's public transit districts by a common collective bargaining statute. Instead, while some transit agencies are subject to the MMBA, many transit agencies are instead still subject to labor relations provisions found in each district's specific Public Utilities Code (PUC) enabling statute, in joint powers agreements, or in articles of incorporation and bylaws. (e.g., Public Utilities Code § 28500)

5) Vests PERB with jurisdiction over ULP charges for the Orange County Transit District Authority (OCTDA), the San Francisco Bay Area Rapid Transit District (BART), and the Sacramento Regional Transit District (SacRT). (PUC §§ 40122.1 and 40122.2, § 28848 – § 28863; and § 102398 – § 102418)

6) Provides transit employees not under the MMBA with basic rights to organization and representation, but does not define or prohibit ULPs. Unlike other California public agencies and employees, these transit agencies and their employees generally must rely upon the courts to remedy alleged violations. Additionally, they may be subject to provisions of the federal Labor Management Relations Act of 1947 (Taft-Hartley) and the 1964 Urban Mass Transit Act, now known as the Federal Transit Act. (PUC § 24501 et seq.; 49 United State Code § 5333 (b))

7) Provides that the following provisions shall govern disputes between exclusive bargaining representatives of public transit employees and local agencies not covered by the MMBA:

   a) The disputes shall not be subject to any fact-finding procedure otherwise provided by law.

   b) Each party shall exchange contract proposals not less than 90 days before the expiration of a contract, and shall be in formal collective bargaining not less than 60 days before that expiration.

   c) Each party shall supply to the other party all reasonable data as requested by the other party.

   d) At the request of either party to a dispute, a conciliator from the California State Mediation and Conciliation Service shall be assigned to mediate the dispute and shall have access to all formal negotiations. (GC § 3611).

8) Authorizes the establishment of the VTA through the Santa Clara Valley Transportation Act (SCVTA), which includes provisions governing labor relations between the VTA and its employees and which provides for labor organization representation, unit determination, collective bargaining, and retirement benefits. (PUC § 100000 et seq.)

This bill:

1) Makes it a primary purpose of SCVTA to promote the improvement of personnel management and employer-employee relations within the VTA by providing a uniform basis for recognizing the right of employees to join

employee organizations of their own choice, to be represented, to select one employee organization as the exclusive representative of the employees in an appropriate unit, and to afford employees a voice at work.

2) Grants PERB jurisdiction to enforce and apply its regulations to ULPs, as specified, if the exclusive representative makes an irrevocable selection for PERB to have jurisdiction over ULPs for one or more of its bargaining units.

3) Requires PERB to perform its duties consistent with its regulations; and authorizes it to make additional regulations.

4) Authorizes PERB to adopt, amend, or repeal all rules and regulations necessary to carry out the bill's provisions as emergency regulations in accordance with the Administrative Procedure Act.

5) Provides that there is a conclusive presumption that the adoption, amendment, or repeal of regulations is necessary for the immediate preservation of the public peace, health, safety, or general welfare, as specified.

6) Retains the Government Code's exclusive, transit district impasse resolution and injunctive relief procedures (GC § 3610 et seq.) and states that the bill does not displace or supplant them.

7) Allows an exclusive the VTA employees' representative to make an irrevocable selection to move one or more of its represented bargaining units to PERB's jurisdiction for ULPs.

8) Require the exclusive representative to file notification of its selection with PERB's general counsel, or designee, and serve notice to one or more of the following: the VTA's general manager, CEO, or the equivalent; the VTA's general legal counsel, or the equivalent; to the VTA pursuant to applicable regulations.

9) Provides that if the union makes a selection for PERB jurisdiction of ULPs, then PERB has exclusive jurisdiction, as specified, of the initial determination as to whether the ULP charge is justified and, if so, the appropriate remedy except that PERB may not award strike-preparation expenses as damages in an action to recover damages due to an unlawful strike nor damages for costs, expenses, or revenue losses incurred during, or as a consequence of, an unlawful strike.

10) Requires the VTA to give reasonable written notice to an exclusive representative of its intent to make any change to matters within the scope of

representation of the employees represented by the exclusive representative for purposes of providing the exclusive representative a reasonable amount of time to negotiate with the VTA regarding the proposed changes.

11) 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 of the Santa Clara Valley Transportation Authority to efficiently and cost-effectively adjudicate ULP complaints.

12) Requires that state mandated costs, if any, be reimbursed according to the Commission on State Mandates process pursuant to Government Code § 17500 et seq.

Comments

Need for this bill? According to the author:

"Public employees have collective bargaining rights and the ability to resolve employer-employee conflicts through the Meyers-Milias Brown Act (MMBA) and/or the Public Employment Relation Board (PERB). The VTA is not covered under the MMBA or included in PERB's jurisdiction. Therefore, when they seek resolution to unfair labor practices (ULP), they must file a writ with the Superior "Court of jurisdiction requesting a judge to review the ULP complaint. The dispute is then assigned to a judge that may or may not have knowledge of or experience with public employer-employee relations or public labor law. The courts, already overburdened and underfunded, can take years to resolve a conflict, contributing to workplace tensions."

Related/Prior Legislation

SB 975 (Laird, 2022) transfers jurisdiction over ULP charges involving the Santa Cruz Metropolitan Transit District from the judicial system to PERB. This bill is pending consideration in the Assembly Public Employment and Retirement Committee.

SB 598 (Pan, Chapter 492, Statutes of 2021) provided exclusive employee organizations the option of transferring jurisdiction over ULPs for their represented bargaining units within SacRT from the judicial system to PERB.

AB 2850 (Low, Chapter 293, Statutes of 2020) granted PERB jurisdiction over disputes relating to employer-employee relations between BART and its employees.

AB 355 (Daly, Chapter 713, Statutes of 2019) required OCTDA and its employees to adjudicate ULP charges before PERB.

AB 2305 (Rodriguez, 2018) would have extended PERB's jurisdiction to include disputes between public agencies and peace officer employee organizations, excluding those under the City and County of Los Angeles employee relations commissions' jurisdiction and disputes between public agencies and individual peace officers, as specified. The Governor vetoed this bill, reasoning:

> "Over the years, the Legislature has expanded the Board's jurisdiction, but the necessary funding for the increased workload has not kept pace. This has resulted in significant backlogs at the Board – both labor and employers have complained about this problem. This Administration has recently increased the Board's funding to help correct this problem. The Board's jurisdiction should not be expanded again until the Board's ability to handle its previously expanded caseload is established."

AB 2886 (Daly, 2018) would have transferred jurisdiction over ULP disputes for the Orange County Transit District Authority and San Joaquin Regional Transit District from the judicial system to the PERB, effective January 1, 2020. The Governor vetoed this bill for the same reason as AB 2305 (Rodriguez, 2018).

AB 3034 (Low, 2018) would have placed BART supervisory, professional, and technical employee units under the MMBA; thereby, granting them certain statutory rights related to the employer-employee relationship. The Governor vetoed this bill for the same reason as AB 2305 (Rodriguez, 2018) and AB 2886 (Daly, 2018).

AB 530 (Cooper, 2017) would have extended PERB's jurisdiction to include Penal Code Section 830 peace officers; authorized a peace officer or labor union representing these peace officers to bring certain actions in court and, excluded employers and employees of the City and County of Los Angeles from its provisions. The Governor vetoed this bill, stating:

> "This bill authorizes peace officers to bring unfair practice charges to the Public Employment Relations Board while preserving their existing right to directly petition a superior court for injunctive relief. No other group has both of these rights and I'm unconvinced that providing such a unique procedure is warranted."

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

According to the Senate Appropriations Committee, PERB estimates that it would incur first-year costs of up to $50,000, and up to $19,000 annually thereafter, to implement the provisions of the bill (General Fund).

In addition, by requiring the VTA to represent itself before PERB, this bill creates a state-mandated local program. To the extent the Commission on State Mandates determines that the provisions of this bill create a new program or impose a higher level of service on local agencies, local agencies could claim reimbursement of those costs (General Fund). The annual magnitude of these claims is unknown.

SUPPORT: (Verified 8/25/22)

American Federation of State, County and Municipal Employees (source)
California State Legislative Board, Smart - Transportation Division
International Federation of Professional and Technical Employees, Local 21
Service Employees International Union, Local 521
Service Employees International Union, Local 1021

OPPOSITION: (Verified 8/25/22)

None received

ARGUMENTS IN SUPPORT: According to the American Federation of State, County and Municipal Employees:

"PERB is a more timely, accessible, and labor-focused venue to resolve any future ULP conflicts that may arise. Transit agencies should have access to the same well-regarded employer-employee conflict resolution process as most California public employees. Assembly Bill 2524 permits the VTA employee organizations to move to the jurisdiction of PERB for ULP complaints. In moving to PERB, the VTA will join Orange County Transportation Authority, Bay Area Rapid Transit and Sacramento Regional Transit."

ASSEMBLY FLOOR: 56-19, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca

Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Mayes, O'Donnell

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
8/26/22 15:47:45

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

SENATE RULES COMMITTEE AB 2556
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2556
Author: O'Donnell (D)
Amended: 8/25/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-0, 6/29/22
AYES: Cortese, Durazo, Newman, Wiener
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 6-0, 8/11/22
AYES: Portantino, Bates, Bradford, Laird, McGuire, Wieckowski
NO VOTE RECORDED: Jones

ASSEMBLY FLOOR: 58-0, 5/9/22 - See last page for vote

SUBJECT: Local public employee organizations

SOURCE: California Professional Firefighters

DIGEST: This bill authorizes a union to charge a local public employee firefighter who is a conscientious objector or who declines membership in the union for reasonable costs of representation if the firefighter requests representation by the union, as specified. This bill also requires a public agency to wait 15 instead of 10 days before the public agency can implement its last, best, and final offer (LBFO), after completing impasse procedures.

Senate Floor Amendments of 8/25/22 limit the union's right to collect the reasonable costs only to instances where the union does not exclusively control the proceeding's process.

ANALYSIS:

Existing law:

1) Governs collective bargaining in the private sector under the federal National Relations Labor Relations Act (NLRA) but leaves it to the states to regulate

collective bargaining in their respective public sectors. (29 United State Code § 151 et seq.) While the NLRA and the decisions of its National Labor Relations Board often provide persuasive precedent in interpreting state collective bargaining law, public employees have no collective bargaining rights absent specific statutory authority establishing those rights.

2) Provides several statutory frameworks under California law to provide public employees collective bargaining rights, govern public employer-employee relations, and limit labor strife and economic disruption in the public sector through a reasonable method of resolving disputes regarding wages, hours, and other terms and conditions of employment between public employers and recognized public employee organizations or their exclusive representatives. These include the *Meyers-Milias-Brown Act* (MMBA) which governs the employer-employee relationship between local public agencies and their employees. (Government Code § 3500 et seq.)

3) Provides a timeframe of *not earlier than 10 day*s in which a local public agency employer may implement its LBFO, after all mediation and factfinding procedures have been exhausted, but excludes charter cities and counties from the factfinding process when binding interest arbitration applies. (GC § 3505.7)

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

5) Prohibits anyone from requiring an employee who is a member of a bona fide religion, body, or sect that has historically held conscientious objections to joining or financially supporting public employee organizations from joining or financially supporting a public employee organization as a condition of employment. (GC 3502.5 (c))

6) Establishes the Firefighters Procedural Bill of Rights Act (FPBRA), which provides firefighters special procedural protections from public agency disciplinary actions, as specified. (GC § 3250)

7) Defines “Firefighter” as any firefighter employed by a public agency, including, but not limited to, any firefighter who is a paramedic or emergency medical technician, irrespective of rank. “Firefighter” also means an employee of the

Department of Forestry and Fire Protection holding a temporary appointment to a firefighter position and employed as a seasonal firefighter. (GC § 3251)

This bill:

1) Authorizes a recognized employee organization to charge a public agency firefighter covered under the FPBRA who holds a conscientious objection, as specified, or who declines membership in the recognized employee organization, for the reasonable cost of representation if the firefighter requests individual representation from the recognized employee organization in a discipline, grievance, arbitration, or administrative hearing.

2) Provides that the right to collect reasonable costs only applies where the union does not exclusively control the proceeding's process.

3) Changes from 10 to 15 days the earliest time a public agency that is not required to proceed to interest arbitration may, after holding a public hearing regarding the impasse, implement its LBFO, as specified.

Comments

Need for this bill? According to the author, "PERB's effective operations are critical to improved public sector employer-employee relations, and for providing timely and cost-effective alternatives for employers, employee organizations, and employees to resolve labor relations disputes.

"This is especially true for firefighters who, unlike other public employees, are statutorily prohibited from striking. Therefore, firefighters rely upon PERB's expertise to impartially, fairly, and rationally settle labor disputes such as securing just compensation for their services, promoting a safe and healthy working environment, and ensuring the establishment of just and reasonable working conditions.

"Additionally, it's imperative that that PERB maintain effective impasse procedures for employers and employee organizations to maintain employee/employer relations. Under current law, after mediation and fact finding, parties are only given 10 days before the public agency can impose their last, best, final offer."

Related/Prior Legislation

AB 2433 (Cooper, 2020) would have changed the period from 10 to 15 days that a public agency could impose its LBFO after completing impasse procedures, as specified. The Assembly Appropriations Committee held the bill in committee.

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

According to the Senate Appropriations Committee, PERB indicates that the bill would have a negligible fiscal impact.

SUPPORT: (Verified 8/26/22)

California Professional Firefighters (source)

OPPOSITION: (Verified 8/26/22)

None received

ARGUMENTS IN SUPPORT: The California Professional Firefighters (CPF) states that existing law authorizes employee organizations representing state firefighters to charge non-union state firefighters for the reasonable costs of representation in a grievance, arbitration, or administrative hearing. According to CPF, "AB 2556 would establish a similar provision for the authorized employee organization of municipal and county fire departments and would not impact or undermine the duty of fair representation and maintains all existing bargaining unit rights regarding determination of representation. Not only will this measure ensure parity among the statutes for firefighters, but it will also ensure that members are not compelled to subsidize those who do not pay for the representation afforded by the recognized employee organization."

ASSEMBLY FLOOR: 58-0, 5/9/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Muratsuchi, Nazarian, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Waldron, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Boerner Horvath, Chen, Choi, Cunningham, Flora, Fong, Gallagher, Gray, Grayson, Kiley, Lackey, Medina, Nguyen, Quirk-Silva, Luz Rivas, Seyarto, Smith, Valladares, Voepel, Ward

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
8/26/22 15:47:45

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2574
Author: Salas (D)
Amended: 8/22/22 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 13-0, 6/20/22
AYES: Roth, Melendez, Bates, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Archuleta

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 61-0, 5/5/22 (Consent) - See last page for vote

SUBJECT: Optometry: ophthalmic and optometric assistants

SOURCE: California Optometric Association

DIGEST: This bill corrects a cross-reference between the clinical laboratory director definition related to optometrists in the Optometry Practice Act (Act), clarifies training requirements for optometric assistants, as specified, reauthorizes and requires an optometrist in an emergency to stabilize, if possible, and immediately refer any patient who has an acute attack of angle-closure glaucoma to an ophthalmologist.

Senate Floor Amendments of 8/22/22 clarify an optometric assistant's required training, add language to avoid a chaptering conflict with AB 2236 (Low), and make other technical and clarifying changes.

ANALYSIS:

Existing law:

1) Defines the practice of optometry to include the diagnosis, prevention, treatment, and management of disorders and dysfunctions of the visual system,

as authorized, as well as the provision of habilitative or rehabilitative optometric services, including laboratory tests or examinations performed in an optometrist office classified as waived under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), as specified. (Business and Professions Code (BPC § 3041(a)(5)(E)(ii))

2) Authorizes an optometrist to treat specified glaucomas using antiglaucoma agents if the optometrist has obtained a therapeutic pharmaceutical agents certification and completed specified glaucoma coursework. (BPC §§ 3041(a)(5)(C), 3041(c), 3041.3)

3) Provides for the licensure, registration, and regulation of clinical laboratories and various clinical laboratory personnel by the California Department of Public Health (CDPH). (BPC §§ 1200-1327)

4) Authorizes an optometrist to serve as the laboratory director for a laboratory classified as waived under the CLIA (42 U.S.C. Sec. 263a; Public Law 100-578) that only performs clinical laboratory tests authorized under the Optometry Practice Act. (BPC § 1209(a)(2)(D))

This bill:

1) Corrects an outdated code reference pertaining to optometrists operating as a laboratory director.

2) Reinstates a provision in the optometry practice act, which requires an optometrist, in an emergency, to stabilize a patient if possible and immediately refer any patient who has an acute attack of angle closure to an ophthalmologist.

3) Clarifies training requirements for an optometric assistant to perform subjective refractions, as specified.

4) Adds language to avoid a chaptering conflict.

5) Makes other technical and clarifying changes.

Background

Federal and State Regulation for Clinical Laboratory Testing. A facility that performs laboratory tests on human specimens for diagnosis or assessment must be

certified under CLIA. CLIA certification requirements vary depending on the complexity of the laboratory tests performed.

Clinical laboratories or other testing sites need to know whether each test system used is waived, moderate, or high complexity. In general, the more complicated the test, the more stringent the requirements, including increased training and licensing of laboratory personnel. At a minimum, all laboratories must have a licensed clinical laboratory director. The US Food and Drug Administration (FDA) determines the complexity of CLIA laboratory tests. Waived tests are simple tests with a low risk for an incorrect result. They include tests listed in the CLIA regulations, tests cleared by the FDA for home use, and tests approved for waiver by the FDA using the CLIA criteria. Tests not classified as waived are assigned a moderate or high complexity category based on seven criteria given in the CLIA regulations, including ease of use, knowledge required, and types of materials tested. For commercially available FDA-cleared or approved tests, the test complexity is determined by the FDA during the pre-market approval process.

Optometrists are authorized to direct a laboratory that performs waived testing. However, the clinical laboratory laws require an update to correct a cross-reference that is no longer applicable due to chaptering language between AB 691 (Chau, Chapter, Statutes of 2021) and AB 407 (Salas, Chapter 652, Statutes of 2021) which amended that code section. This bill makes that update.

Last year, AB 407 (Salas, Chapter 652, Statutes of 2021) revised the current scope of practice for licensed optometrists by authorizing additional tests related to conditions of the eye, authorized the treatment of specified conditions of the eye, authorized the utilization of light therapy, and permitted the use of new FDA-approved technologies. As noted by the Sponsor, there was a drafting error last year, which inadvertently struck out the requirements for emergency treatment by an optometrist related to acute angle closure glaucoma, which stated, *in an emergency, an optometrist shall stabilize, if possible, and immediately refer any patient who has an acute attack of angle closure to an ophthalmologist.* This bill adds that requirement back into the Act.

In addition, that bill authorized optometric assistant to perform subjective refractions, under specified conditions. This bill clarifies how an optometric assistant may acquire the required training hours.

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

SUPPORT: (Verified 8/22/22)

California Optometric Association (source)

OPPOSITION: (Verified 8/22/22)

None received

ARGUMENTS IN SUPPORT: The California Optometric Association writes in support and notes, "The bill reinstates the ability of an optometrist to be a lab director for CLIA waived testing. Without this authority, optometrists will not be able to diagnose certain eye diseases with point of-care testing. They also will not be able to detect/rule out other conditions that effect the eye, like diabetes. The authority to direct CLIA waived labs needs to be restored immediately so that optometrists can continue to use point-of-care testing that they have been doing since 2012. The bill also reinstates the ability to stabilize a patient with an acute attack of angle closure glaucoma. The authority to stabilize a patient with acute angle closure was added in 2008 with SB 1406 (Correa) and there has been no reported issues or concerns. The authority was accidentally deleted in the end-of-session amendments to AB 407."

ASSEMBLY FLOOR: 61-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Gabriel, Eduardo Garcia, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Ward, Akilah Weber, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Flora, Fong, Friedman, Gallagher, Cristina Garcia, Gipson, Levine, McCarty, Medina, Villapudua, Waldron, Wicks

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
8/23/22 13:23:23

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2586
Author: Cristina Garcia (D) and Luz Rivas (D), et al.
Amended: 8/24/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 8-1, 6/22/22
AYES: Pan, Eggman, Gonzalez, Leyva, Limón, Roth, Rubio, Wiener
NOES: Melendez
NO VOTE RECORDED: Grove, Hurtado

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 52-17, 5/23/22 - See last page for vote

SUBJECT: Reproductive and sexual health inequities

SOURCE: ACCESS Reproductive Justice
Black Women for Wellness Action Project
California Latinas for Reproductive Justice

DIGEST: This bill establishes the California Reproductive Justice and Freedom Fund (RJ Fund), and specifies that the goal of the RJ Fund is to dismantle historic and standing systemic reproductive and sexual health inequities. Requires the California Department of Public Health (CDPH), upon appropriation by the Legislature, to award grants from the RJ Fund to eligible organizations over a three-year period, and requires grant recipients to use any grant funds to implement a program or fund an existing program that provides and promotes medically accurate, comprehensive reproductive and sexual health education.

Senate Floor Amendments of 8/24/22 (1) delete provisions establishing a working group; (2) require CDPH to solicit grant applications by July 1, 2023, and to commence awarding grants by December 31, 2023; and (3) make changes to the findings and declarations.

ANALYSIS:

Existing law:

1) Establishes the CDPH, directed by a state Public Health Officer, to be vested with all the duties, powers, purposes, functions, responsibilities, and jurisdiction as they relate to public health and licensing of health facilities, as specified. Requires CDPH to maintain a program of maternal and child health. Requires CDPH to track and publish data on severe maternal morbidity and on pregnancy-related deaths, as specified. [HSC §131050, §123225, and §123630.4]

2) Establishes the Office of Health Equity (OHE) within CDPH for the purposes of aligning state resources, decision making, and programs to (a) achieve the highest level of health and mental health for all people, with special attention focused on those who have experienced socioeconomic disadvantage and historical injustice, as specified; (b) work collaboratively with the Health in All Policies Task Force to promote work to prevent injury and illness through improved social and environmental factors that promote health and mental health; (c) advise and assist other state departments in their mission to increase access to, and the quality of, culturally and linguistically competent health and mental health care; and, (d) improve the health status of all populations and places, with a priority on eliminating health and mental health disparities and inequities. [HSC §131019.5 (b)]

3) Sets forth the duties of OHE, including requiring it to serve as a resource for ensuring that programs collect and keep data and information regarding ethnic and racial health statistics, including those statistics described in reports released by Healthy People 2020, and information based on sexual orientation, gender identity, and gender expression, strategies and programs that address multicultural health issues, including, but not limited to, infant and maternal mortality, cancer, cardiovascular disease, diabetes, HIV/AIDS, child and adult immunization, osteoporosis, menopause, and full reproductive health, asthma, unintentional and intentional injury, and obesity, as well as issues that impact the health of racial and ethnic communities, women, and the lesbian, gay, bisexual, transgender, queer, and questioning (LGBTQQ) communities, including substance abuse, mental health, housing, teenage pregnancy, environmental disparities, immigrant and migrant health, and health insurance and delivery systems. [HSC §152(a)(7)]

This bill:

1) Establishes the California Reproductive Justice and Freedom Fund (RJ Fund), and specifies that the goal of the RJ Fund is to dismantle historic and standing systemic reproductive and sexual health inequities through medically accurate, culturally congruent education and outreach, as well as to create innovative strategies that meaningfully address and function to eliminate root causes of reproductive oppression.

2) Requires CDPH, upon appropriation by the Legislature, to award grants from the RJ Fund to eligible CBOs over a three-year period. Requires CDPH to post the grant application on its website and solicit applications by July 1, 2023 and to award grants to selected entities by December 31, 2023.

3) Requires grant recipients to use any grant funds to implement a program or fund an existing program that provides and promotes medically accurate, comprehensive reproductive and sexual health education. Requires a funded program to: (a) promote reproductive justice; (b) provide medically accurate, culturally congruent reproductive and sexual health education that is inclusive of information on abortion rights, care, and services. Requires the education or outreach provided to include information on how to obtain an abortion or provide abortion referrals, especially upon request; and, (c) be targeted at communities that have experienced or continue to experience high reproductive or sexual health inequities or disparities. This includes communities that have experienced reproductive or sexual health inequities or disparities because of historic and systemic oppression, including based on their race and ethnicity, immigration status, sexual orientation, gender expression, foster youth status, or disability.

4) Permits grant recipient organizations to use a portion of grant funds to pay for costs associated with carrying out grant activities. Requires an assessment of associated costs to contemplate the CBO, the community served, and the nature of services it provides, and may include: building staff capacity; development and dissemination of materials; and, travel costs.

5) Prohibits CDPH from spending more than 5% of the funds on administrative costs.

Comments

1) *Author's statement.* According to the author, the U.S. is seeing the most dramatic rollback of reproductive rights since the *Roe v. Wade* ruling. In 2021,

states across the country introduced and passed more anti-choice laws than in the last 30 years. In 2022 over 200 anti-choice bills have been introduced nationwide. Although California unapologetically affirms birthing people's rights to plan if, when, and how they create a family, the reality is that many people of color, particularly Black and Indigenous communities do not have tangible access to wrap around reproductive and sexual health care as well as the complete, medically accurate information necessary to make the best choices for themselves and their families. Additionally, California has not been spared the advancements of the anti-choice movement, as Crisis Pregnancy Centers — organizations that present as medical centers and purport to offer comprehensive reproductive health care information and services, but have been very well documented as promoting false and biased medical claims— outnumber real clinics that provide abortion services. From the lack of targeted innovative approaches to address long-standing disparities in reproductive and sexual health, we now see, over two decades, increasing negative reproductive health outcomes in communities of color. This bill employs long term and immediate strategies that are innovative and responsive, to meaningfully address persistent reproductive and sexual health inequities for all Californians.

2) *Health inequities.* According to a 2018 California Health Care Foundation (CHCF) report, California is the most racially diverse state in the country. Over the last 20 years, California's population has grown more diverse, as Latinos have grown from 32% to 40% of the population and Asians from 12% to 14% while whites have declined from 48% to 37%. Between 2019 and 2040, California's population is expected to increase by 6.5 million. People of color represent 93%, or six million, of the expected increase. People of color continue to face barriers to accessing health care, often receive suboptimal treatment, and are most likely to experience poor outcomes in the health care system. California also has some of the highest rates of immigrants, refugees, and undocumented people when compared to the rest of the country, and people who speak a language not considered a "threshold language" (languages spoken at a high proportional rate within a geographic region) are often unable to receive materials and services in their language. A 2018 study of refugee patients found that language barriers in accessing health care services and insufficient time to meet educational needs of refugees were major challenges outside of the clinic visit setting. Poor health literacy and difficulties communicating health needs and building trust within the interactive triad of refugee, physician, and interpreter impacted clinic visits. And a February 2022 CHCF report states that non-English speakers, people who are low-income, and people living in rural areas experience a "digital divide" that has deepened due to the pandemic and the rise of telemedicine.

3) *California Future of Abortion Council (CA FAB Council).* According to the CA FAB Council website, in September 2021, with the constitutional right to abortion facing the most severe threats since *Roe v. Wade*, the CA FAB Council convened to identify the most pressing barriers to care for patients seeking abortion services in California. More than 40 organizations representing sexual and reproductive health care providers, reproductive rights and reproductive justice advocacy organizations, legal and policy experts, researchers, and advocates, with the support of California policymakers, joined together to recommend policy proposals supporting equitable and affordable access to abortion care for Californians and all who seek care here. The CA FAB Council made 45 policy recommendations relating to seven main areas of focus: (a) Investment in abortion funds, direct practical support, and infrastructure to support patients seeking abortion care; (b) Cost barriers and adequate reimbursement for abortion and abortion-related services; (c) Investment in a diverse California abortion provider workforce and an increase in training opportunities for BIPOC and others historically excluded from health care professions; (d) Reducing administrative and institutional barriers to care; (e) Legal protections for abortion patients, providers, and supporting organizations, and individuals; (f) Addressing misinformation and disinformation and ensuring access to medically accurate, culturally relevant, and inclusive education about abortion and access to care is widely and equitably available; and (g) Efforts to collect data, conduct research, and distribute reports to assess and inform abortion care and education needs in California.

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

According to the Senate Appropriations Committee, unknown General Fund cost pressures, likely millions of dollars, to support the grant program.

SUPPORT: (Verified 8/25/22)

ACCESS Reproductive Justice (co-source)
Black Women for Wellness Action Project (co-source)
California Latinas for Reproductive Justice (co-source)
California Attorney General, Rob Bonta
ACLU California Action
ACT for Women and Girls
American College of Obstetricians and Gynecologists District IX
API Equality-LA
Black Alliance for Just Immigration
California Black Women's Health Project

California Healthy Nail Salon Collaborative
California Medical Association
Center for Genetics and Society
Center for Reproductive Rights
Citizens for Choice
City of Los Angeles
Community Health Initiative of Orange County
Fresno Barrios Unidos
Gender Justice LA
Having Our Say Coalition
Health Connected
Initiate Justice
LA Care Health Plan
Latino Coalition for a Healthy California
Lawyering for Reproductive Justice
League of Women Voters of California
NARAL Pro-Choice California
National Center for Youth Law
National Council of Jewish Women CA
National Health Law Program
Plan C
Planned Parenthood Affiliates of California
Public Health Advocates
Training in Early Abortion for Comprehensive Healthcare
Women's Foundation California
Women's Health Specialists
Worksafe

OPPOSITION: (Verified 8/25/22)

Assure Pregnancy Clinic
California Alliance of Pregnancy Care
California Catholic Conference
Concerned Women for America
Department of Finance
Fieldstead and Company
Frederick Douglass Foundation of California
Mountain Right to Life, Inc.
National Institute of Family and Life Advocates
Right to Life League

ARGUMENTS IN SUPPORT: The Black Women for Wellness Action Project (BWWAP) is a co-sponsor of this bill and states that we are currently witnessing a concerted effort to dramatically roll back reproductive rights across the country. In 2021, states across the country passed more anti-choice laws than in the last 30 years and since January, over 500 anti-choice bills have been introduced nationwide. Although California continues to affirm and demonstrate its commitment to reproductive freedom, BIPOC people, particularly young BIPOC people, and gender expansive people bear the burden of reproductive and sexual health inequities. The reality is that BIPOC communities lack tangible access to wrap around reproductive and sexual health care as well as the comprehensive, medically accurate, culturally congruent information necessary to make the best choices for themselves and their families. Black, Indigenous, and other communities of color continue to bear the burden of sexual and reproductive health disparities across California that include: inequitable access to abortion information, care and related services; inequities in sexually transmitted infection rates; and inequities in accessing contraceptive care. BWWAP concludes that these inequities are deeply rooted and compounded by the numerous racial and income-based inequities and forms of oppression that Black, Indigenous and other communities of color experience.

ARGUMENTS IN OPPOSITION: The National Institute of Family and Life Advocates (NIFLA), states that this bill is evidence of state-sponsored content-based restriction abridging the freedom of speech protected by the First Amendment under *NIFLA v. Becerra* and violates both the California state constitution as well as the First Amendment of the U.S. Constitution and should be rejected by this committee.

The California Catholic Conference writes that they are, as always, opposed to abortion expansion since it always takes the life of an innocent human being, with more than 132,000 lives lost each year in our state. Women deserve to be empowered with non-violent solutions to the challenges they face during pregnancy. However, this bill should also be rejected because it prioritizes the expansion of abortion and third-party reproduction over ensuring California women have full spectrum care when they choose to become parents, in the name of marginalized communities.

ASSEMBLY FLOOR: 52-17, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson,

Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon

NOES: Bigelow, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron

NO VOTE RECORDED: Berman, Mia Bonta, Chen, Choi, Cooley, Mayes, O'Donnell, Blanca Rubio, Wilson

Prepared by: Melanie Moreno / HEALTH / (916) 651-4111
8/26/22 15:47:46

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

SENATE RULES COMMITTEE AB 2594
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2594
Author: Ting (D), et al.
Amended: 8/1/22 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 17-0, 6/28/22
AYES: Newman, Bates, Allen, Archuleta, Becker, Cortese, Dahle, Dodd, Hertzberg, Limón, McGuire, Melendez, Min, Rubio, Skinner, Wieckowski, Wilk

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 5/25/22 - See last page for vote

SUBJECT: Vehicle registration and toll charges

SOURCE: Author

DIGEST: This bill makes numerous changes to the administration of bridge and toll roads.

ANALYSIS:

Existing law:

1) Requires every vehicle using a toll bridge or toll highway to be liable for any tolls or other charges that may be prescribed and prohibits a person from evading or attempting to evade the payment of those tolls or charges.

2) Requires toll operators, or processing agencies, to issue a notice of toll evasion violation to the registered owner of the vehicle within 21 days of the violation if a vehicle is found, by automated devices (including cameras), by visual observation, or otherwise, to have evaded a toll. Prescribes toll evasion penalties to include any late payment penalty, administrative fee, fine, assessment, and costs of collection. Limits toll evasion violation penalties to $100 for the first offense, $250 for a second violation within one year, and $500 for each additional violation within one year.

3) Establishes a process for contesting a notice of toll evasion violation. Within 21 days from the issuance of the notice or within 15 days from the mailing of the notice, whichever is later, a person may contest the notice in which case the toll operator is required to conduct an administrative investigation. If the person is not satisfied with the results of the investigation, he or she may, within 15 days of the mailing of the results and after paying the penalty for toll evasion, request an administrative hearing. If the person is not satisfied with the results, he or she may, within 20 days of the mailing of the results, appeal to the court.

4) Authorizes the Department of Motor Vehicles (DMV) to make vehicle registration contingent upon compliance with a toll evasion violation.

5) Requires a person, if after applying for or receiving a driver's license moves to a new residence, or acquires a new mailing address to notify DMV within 10 days of the address change.

6) Requires the application for an original driver's license or renewal of a driver's license to contain specified information, including the applicant's name, age, gender category, mailing address, and residence address.

7) Defines "pay-by-plate toll payment" as an issuing agencies' use of on-road vehicle license plate identification recognition technology to accept payment of tolls in accordance with policies adopted by the issuing agency.

This bill:

1) Requires, generally, implementation of the provisions of the bill to become operative on July 1, 2024, except as specified.

2) Requires DMV, commencing January 1, 2027, to include a statement as part of an application for an original or renewal driver's license informing the person that they may also need to change their address for purposes of their vehicle registration. Also requires DMV to give the same information orally if the driver's license application or renewal is done in person.

Toll notices for bridges

3) Requires, for toll bridges, an issuing agency that permits pay-by-plate toll payment, as defined, that permits payment by a transponder or other electronic toll payment device to send an invoice by mail for any unpaid toll to the registered vehicle owner. Requires the invoice to include a notice to the registered owner that, unless the registered owner pays the toll by the due date

shown on the invoice, a toll evasion penalty will be assessed. Requires the invoice due date shall not be less than 30 days from the invoice date.

4) Stipulates, for toll bridges, that if a toll invoice is not paid by the due date shown on the invoice, the nonpayment shall be deemed an evasion of tolls and the issuing agency, or processing agency as the case may be, shall mail a notice of toll evasion violation to the registered owner, as specified.

Caps on penalties

5) Limits, for toll bridges, toll penalties to $25 for the notice of violation (1st), $50 for the notice of delinquency of evasion (2nd) for a cumulative total of $50 for each individual toll evasion violation. Allows the penalties to include any administrative fee, fine, or assessment imposed by the state in addition to the cumulative $50 limit per each individual toll evasion violation.

6) Limits, for toll roads and express lanes, toll penalties to $60 for the notice of violation (1st), with a maximum cumulative toll evasion penalty not to exceed $100 for each individual toll evasion violation.

7) Requires that if the registered owner, by appearance or by mail, makes a payment to the processing agency within 15 days of the mailing of the notice, the amount owed shall consist of the amount of the toll without any additional penalties, administrative fees, or charges.

8) Authorizes the toll penalties amounts to be adjusted by the California Consumer Price Index.

9) Requires an issuing agency to waive the toll evasion penalty for a first violation if the person contacts the customer service center within 21 days from the mailing of the notice, and the person is not currently an accountholder with the issuing agency, signs up for an account, and pays the outstanding toll.

Contesting tolls violations

10) Makes changes to existing provisions for contesting tolls violations, including allowing 30 days, instead of 15 days, from the mailing of the notice for a person to contest the toll violation; requires the processing agency or issuing agency to review evidence of the alleged violation, including photographs; allows the agency to email, in addition to mail, the results; requires a person that qualifies under the payment plan only be required to pay the toll amount, not the penalty, while awaiting an administrative review.

Payment Plans

11) Requires issuing agencies to make a payment plan option available to a person whose monthly income is 200% of the current poverty guidelines, or less, as specified.

12) Stipulates that the agency is not be required to offer more than one payment plan to a person at any given time, nor to offer a person more than two payment plans in a six-year period.

13) Requires the issuing agency, for purposes of verifying a person's eligibility, to accept all of the following: an unexpired proof of enrollment of participation in the CalFresh program, Medi-Cal, or another low-income program with the same or more exacting low-income requirement; or an unexpired county benefit eligibility letter. Allows for other evidence of the persons' income may also be accepted, as determined by the issuing agency.

14) Requires the payment plan option apply to toll evasion penalties in excess of $100; the payment of no more than $25 per month for total outstanding toll evasion penalties $600 or less; include no prepayment penalty for paying off the balance prior to the payment period expiring; and include a process for removal of any DMV registration hold. Stipulates that the agency is not be required to offer a payment plan if the person has more than $2,500 in outstanding toll evasion penalties.

15) Requires information regarding the issuing agency's payment plan to be posted on an Internet website.

16) Stipulates that the agency may go above the payment plans required minimums.

17) Contains an operative date, for payment plans, July 1, 2023, for toll bridges, and July 1, 2024, for toll roads.

18) Requires DMV to not make vehicle registration contingent upon compliance with a toll evasion violation if the person is entered into a payment plan, as specified, and has made the first payment. If the person is delinquent on the payment plan for more than 10 business days, requires DMV to refuse to renew vehicle registration until the terms of the payment plan are satisfied, and the toll agency has notified DMV.

Toll collection options and customer service

19) Requires an issuing agency that operates an electronic toll collection system that permits payment by a transponder or other electronic toll payment device to, directly or through a third-party vendor, make the transponder or other electronic toll payment device available for acquisition online, by mail, and in person at a retail outlet, the office of an issuing agency or processing agency, as defined, or customer service center. Requires at least one retail outlet, kiosk, or customer service be located within the jurisdiction of the issuing agency.

20) Requires the issuing agency to post on an internet website related to its electronic toll collection system locations where tolls may be paid with cash, and locations at which a transponder or other electronic toll payment device may be acquired. Requires the price of the transponder or other electronic toll payment device to not exceed the reasonable cost to the issuing agency based on the estimated cost to procure and distribute the device.

21) Defines "retail outlet" to include a store managed by the issuing agency, a cash payment location, or other locations not managed by the issuing agency.

22) Requires that if issuing agency offers a transponder or other electronic toll payment device, a person be allowed to acquire a transponder or other electronic toll payment device with cash, or with a credit or debit card, and be allowed to load a minimum of one hundred dollars ($100) onto the associated account with cash or with a credit or debit card. Stipulates, there shall be no additional transaction fee charged to acquire the transponder or other electronic toll payment device except, as specified. Prohibits issuing agency from assessing any additional transaction fee to the amount a person is charged by a cash payment network company to load funds to an account using cash through a cash payment network.

23) Requires the issuing or processing agency's offices or customer service centers, subject to extenuating circumstances and holidays, to be open at least five hours per week between the hours of 6 a.m. to 8 a.m. or 5 p.m. to 7 p.m., or on a Saturday. Stipulates that a person shall be able to conduct all of the following transactions: (a) acquire the issuing agency's transponder or other electronic toll payment device; (b) load money onto an account with the issuing agency; (c) pay a toll notice, including fines and penalties; and (d) register or remove a license plate to or from a transponder or other electronic toll payment device account with the issuing agency for payment of tolls.

Stipulates the issuing agency cannot charge persons paying cash an additional transaction fee for any transaction listed.

24) Requires at least one issuing or processing agency's office or customer service center within the issuing agency's jurisdiction and have two or more physical locations within each county in which a toll facility operated for purposes of conducting the transactions, as specified.

25) Requires the issuing agency, or through a third-party vendor, subject to extenuating circumstances and holidays directly, to maintain a customer service telephone line that shall be operated by a live person for at least 35 hours per week between the hours of 8 a.m. to 5 p.m. and an additional 5 hours per week between the hours of 6 a.m. to 8 a.m., from 5 p.m. to 7 p.m., or on a Saturday. Requires the customer service telephone line to be available to address questions related to acquiring a transponder or other electronic toll payment device, paying toll notices, disputing tolls and penalties, setting up payment plans, and registering the license plate of a vehicle to a transponder or other electronic toll payment device account. Requires the customer service telephone line to provide language interpreter services and assistance for deaf or hard-of-hearing individuals.

Rental car companies

26) Requires an issuing agency to allow a driver of a rental vehicle to register the rental vehicle to a transponder or other electronic toll payment device account with the issuing agency prior to traveling on the issuing agency's toll facility for the purpose of paying all tolls with a credit or debit card. Authorizes the issuing agency to require the use of a transponder for this purpose.

27) Requires public entities operating or planning to implement a toll facility in this state to cooperate to publish an internet website at which the public and rental car agencies can view and download, or that provides direct links to, information about how to open an account or acquire a transponder or other electronic toll payment device, for use of each issuing agency's toll facility.

28) Requires the rental car agency to provide the customer with a written or electronic notice, including the electronic link for the internet website. Requires the notice to be separate from the rental contract and, if an electronic notice, emailed to the rental customer.

One-time waiver

29) Requires, commencing July 1, 2023, an issuing agency to provide a one-time waiver of outstanding toll evasion penalties for toll evasion violations on a toll bridge occurring from March 20, 2020, to January 1, 2023, inclusive, upon request, for those individuals whose monthly income is 200% of the current poverty guidelines. Requires the issuing agency to verify eligibility using the same criteria as the payment plans, as specified. Requires eligible applicants to pay the total amount of the outstanding tolls, and any related fees, fines, or assessments imposed by DMV; and the agency may require the applicant to open an account and acquire a transponder or other electronic toll payment device. Clarifies that this only applies to vehicles registered in California. Requires the issuing agency to include information about the availability of the one-time waive program on an internet website and direct its customer service center to inform the public about the availability of the program when responding to inquiries about toll evasion violations incurred, as specified.

Comments

1) *Purpose of this bill.* According to the author, "As toll agencies have shifted from in person toll payment to a mailed invoice, the process must change to accommodate this reform. Several circumstances can hinder a person's ability to pay the fines associated with an unpaid toll. One outstanding issue with the switch to electronic payment is its direct impact on people who do not have a debit or credit card to pay their invoice online. The Metropolitan Transportation Commission's (MTC) data shows that between January and August of 2021, 5.1 million second notice violations were sent out and only 12 percent were actually paid. Under current law, agencies have the authority to charge hundreds of dollars in fines. Such penalties create significant financial burden and consequences such as a DMV hold on an individual's vehicle registration. Those most impacted are lower income individuals, people of color, and non-English speaking Californians. AB 2594 provides a comprehensive solution to address toll penalties by creating a process to instill equity in the payment process, and addressing the needs of unhoused and unbanked drivers."

2) *Tolls in California.* Individuals may encounter tolls on bridges, toll roads, and express lanes while driving in California. Revenue from these tolls is used to pay for maintenance and other costs, such as debt service, improvements to the corridor, and seismic retrofitting of bridges. There are 13 tolling agencies in the state that administer at least one and in some cases two types of tolls: (a) tolls to

use bridges and (b) tolls for using express lanes or toll roads. The two types of tolls are distinct from each other in that generally bridges cannot be avoided by choosing an alternate route. In contrast, the use of express lanes is optional, intended to ease congestion, and provides a faster travel option to those who pay the toll.

Toll systems rely on a few methods for registering a person's use of a toll facility and payment of the tolls. First, is via a vehicle-mounted toll tag or sticker transponder that is read by antennae and associated electronically to a person's FasTrak account. Second, license plate readers are cameras that are positioned in various entrances and/or exits to the toll lane or bridge to record images of your license plate as a vehicle passes and tolls are assessed electronically to a person's account or to a one-time payment transaction. Additionally, on a handful of toll bridges, if a person has no transponder, the license plate information can be used to send a toll invoice to the registered owner of the vehicle.

3) *Impact of toll fines and penalties.* The cost of fines and fees associated with tolls has steadily increased over the last few decades. For tolls, after notice of an unpaid toll violation, toll agencies are allowed to use the DMV to collect unpaid debt. DMV can require payment in full for unpaid tolls in order to renew vehicle registration. This can cause the cost of a person's vehicle registration to increase to potentially unaffordable levels. Drivers who do not renew their vehicle registration, lose access to their main commute option or risk breaking the law and driving an unregistered vehicle.

   In November 2021, SPUR released a report called *Bridging the Gap* that looked at tolls in the Bay Area and their impacts on low-income people. According to SPUR, there are four key problems with the current system for dealing with unpaid tolls: mailing address errors, accessibility barriers, high fines and fees, and a lack of payment plan options. SPUR found that in 2019 there were 5 million unpaid tolls resulting in fines and fees in the Bay Area and 70% were sent to the DMV or collection agencies, with each violation accruing at least $70 in fines and fees for a $6 toll.

   The cost from being late on payment of a toll could easily spiral out of control. For example, in Orange County each violation is assessed a $57.50 penalty in addition to the toll amount due, therefore an unpaid $3.50 toll could wind up costing a person $61. If you fail to pay the first violation a second notice would be mailed with an additional $42.50 penalty.

If the Orange County Transportation Authority then were to ask DMV to collect the unpaid debt, DMW would add the entire cost of the outstanding toll and fines ($103.50) to vehicle registration fees. If someone were unable to pay the outstanding amount all at once on top of their vehicle registration fees, then late fees for vehicle registration increase by 60% of the original fee for payments over 30 days late, which can increase the registration fee as much as $100. If a person is then pulled over for having an unregistered vehicle, the fine for driving unregistered vehicles is currently $285.

4) *AB 2594 updates the current toll collection and payment systems.* AB 2594 attempts to address many of the concerns raised by SPUR and others in order to develop more equitable and usable tolling collection and payment systems. Recent amendments to the bill represent the culmination of discussions with the toll agencies, DMV, and reform supporters. As noted, California has no-choice toll facilities, such as bridges, and choice facilities, such as HOT lanes. The bill treats these facilities differently for some of the fines and penalties. Overall, the bill delays implementation for a year and a half, until July 1, 2024. Specifically, the bill addresses the following areas:

   - *Up-to-date contact information.* Ensuring that contact information for drivers is up-to-date could help to reduce the number of inadvertently unpaid tolls. As many of the toll agencies use license plate reader technology, having accurate address is critical. The bill requires DMV, starting January 1, 2027, as part of the application for a new or renewal driver's license, to provide a statement informing the person that they also need to change their address for purposes of vehicle registration. The bill also requires this information to be communicated orally if the driver's license renewal is done in person. The implementation for this piece of the bill is delayed until 2027, as DMV is currently undergoing an update of its legacy IT systems that is expected to be completed by then.

   - *Invoices and notifications.* To allow for an increased amount of time for the payment of bridge tolls before penalties are incurred, the bill provides a process for the mailing of invoices for notification of toll use and violations. Specifically, a person would be mailed an invoice for use of the toll bridge. If it is not paid in 30 days, the person would be sent a second notice, constituting a first notice of toll violation. If that is paid in full within 15 days, the person only has to pay the toll amount. If it is not paid, a penalty of maximum of $25 can be attached to the toll amount. If the person still has not paid, in no less than 30 days, a 3rd notice is sent. Within the first 15 days of receipt of the notice of delinquent toll evasion, only the toll and the second penalty assessed of maximum of $25 would be due. If the total is

not paid in 15 days, the toll agency can charge another fee, capped at $50 cumulative, and the agency may contact the DMV to place a hold on the person's vehicle registration.

- *Penalties.* As mentioned, the bill caps penalties for each individual toll violation for bridges at a maximum of $25 for the first notice of toll evasion and a cumulative total of $50. For toll roads, the bill caps penalties at a maximum of $60 for the first notice of toll evasion and a cumulative total of $100. The bill allows for the penalties to be adjusted by the California CPI.
- *Contesting toll violations.* The bill makes various changes to the existing appeals process for contesting toll violations, including doubling the amount of time, from 15 days to 30 days, to contest the toll. The bill also requires the toll agency to review evidence of the violation, including photographs. It also allows agencies to email, instead of just mail, the results of the process.
- *Toll collection options and customer service.* The bill makes it easier for people to either purchase a transponder or other electronic toll payment device for toll collection or pay tolls and penalties by codifying the location and operating hours of physical locations within a service area and operating hours for customer service telephone lines. Toll agencies would also be required to make the transponders available for purchase online, by mail, or through a third party retail vendor.
- *Payment plans.* The bill requires the toll agencies to set up payment plans for low income individuals, defined as 200% of the federal poverty level to be verified using relevant state program participation. The payment plan must be available for people with at least $100 in toll penalties to a maximum of $2,500. People can pay $25 a month for all outstanding penalties of $600 or less. The bill also puts a stop to a DMV hold on vehicle registration if the person is participating in and keeping up with a payment plan.
- *Rental car and toll payment.* To help make sure people who are renting cars don't inadvertently not pay for the use of toll facilities, the bill requires toll agencies to allow people to register a rental vehicle to their existing transponder or other electronic toll payment device account prior to travel. It also requires the toll agencies to cooperate to publish an internet website at which the public and rental car companies can view and download information about how to open an account or acquire a payment device. The rental car companies would provide customers with written or electronic

notice to direct people to the website or include information regarding the tolls when renting a car.

5) *One time waiver*. In early June 2022, BATA announced it would try to collect more than $180 million in unpaid bridge tolls, about $50 million comes from unpaid tolls and $130 million in late fees, after its Oversight Committee voted to crack down on more than 400,000 drivers. According to the author, "Bay Area drivers should not be penalized because BATA chose to remove their operators from the tolls at Bay Area bridges as a result of the COVID-19 pandemic."

   In reaction to this announcement, the bill requires a one-time waiver of outstanding toll evasion violation penalties on a toll bridge occurring March 20, 2020, to January 1, 2023, for low income people, defined the same as the payment plans, that request the waiver. It requires the applicant to pay the only outstanding toll amount and any related DMV fees.

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

SUPPORT: (Verified 8/8/22)

Metropolitan Transportation Commission
Western Center on Law & Poverty, Inc.

OPPOSITION: (Verified 8/8/22)

None received

ARGUMENTS IN SUPPORT: The Western Center on Law & Poverty, Inc. states, "AB 2594 is a very important reform to current state law when it comes to collecting tolls and punishing violators. While toll agencies have expanded in recent decades in California, the law related to collecting tolls and ensuring there is due process have remained stagnant. In short, California has virtually no legal standards when it comes to how toll violations are collected (outside of limited notice requirements). There are no payment plans, no ability to pursue a review without paying up front and excessive fines for relatively small toll amounts. AB 2594 will create statewide, uniform standards and payment levels to insure that low income Californians are not subject to egregious penalties or loss of a vehicle."

ASSEMBLY FLOOR: 76-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi,

Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Melissa White / TRANS. / (916) 651-4121
8/10/22 14:24:57

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

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THIRD READING

Bill No: AB 2596
Author: Low (D), Carrillo (D), Chen (R), Choi (R), Fong (R), Gabriel (D), Cristina Garcia (D), Gipson (D), Kalra (D), Lee (D), McCarty (D), Nguyen (R), Quirk-Silva (D), Ting (D) and Wicks (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 12-0, 6/28/22
AYES: Dodd, Allen, Archuleta, Becker, Bradford, Hueso, Jones, Kamlager, Melendez, Portantino, Rubio, Wilk
NO VOTE RECORDED: Nielsen, Borgeas, Glazer

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 76-0, 5/25/22 - See last page for vote

SUBJECT: Lunar New Year holiday

SOURCE: Author

DIGEST: This bill recognizes Lunar New Year as a state holiday and authorizes eligible state employees to elect to receive eight hours of holiday credit for that date in lieu of receiving eight hours of personal credit, as specified.

Senate Floor Amendments of 8/25/22 add a coauthor.

ANALYSIS:

Existing law:

1) Designates specific days as holidays in the state; and, requires the Governor annually to proclaim the date corresponding with the second new moon following the winter solstice as the Lunar New Year.

2) Authorizes state employees to elect to receive eight hours of holiday credit for "Native American Day," in lieu of receiving eight hours of personal holiday

credit, and to elect to use eight hours of vacation, annual leave, or compensating time off, consistent with departmental operational needs and collective bargaining agreements, for "Native American Day," as specified.

3) Designates specific days designated as holidays in this state as judicial holidays, except "Admission Day," "Columbus Day," and any other day appointed by the President, but not by the Governor, for a public fast, thanksgiving, or holiday.

This bill:

1) Recognizes the Lunar New Year as a state holiday.

2) Authorizes eligible state employees to elect to receive eight hours of holiday credit for the date corresponding with the Lunar New Year in lieu of receiving eight hours of personal holiday credit, as specified.

3) Excludes "Lunar New Year" from designation as a judicial holiday.

4) Repeals the existing requirement that the Governor annually proclaim the date corresponding with the second new moon following the winter solstice, or the third new moon following the winter solstice should an intercalary month intervene, as the Lunar New Year.

Background

Purpose of this bill. According to the author's office, "the creation of this holiday through AB 2596 will recognize the cultural and historical significance of Lunar New Year and acknowledge Asian Americans and all individuals who celebrate this significant occasion. When we think about the opportunities for us to look at a comprehensive approach to tacking the issue of stopping Asian hate, while also uplifting our community, this will demonstrate California's unwavering support for the fabric of American diversity and be a strong testament of solidarity with the growing Asian American community which has faced marginalization in the past years."

Lunar New Year. In 2022, the Lunar New Year began on Tuesday, February 1. While the official dates encompassing the holiday vary by culture, those celebrating consider it the time of the year to reunite with immediate and extended family. The New Year typically begins with the first new moon that occurs between the end of January and spans the first 15 days of the first month of the lunar calendar—until the full moon arrives. Some of the traditional festivities include street parades, food, music, dancing, and fireworks.

Each year in the Lunar calendar is represented by one of 12 zodiac animals included in the cycle of 12 stations or "signs" along the apparent path of the sun through the cosmos. The 12 zodiac animals are the rat, ox, tiger, rabbit, dragon, snake, horse, sheep, monkey, rooster, dog, and pig. In addition to the animals, the five elements of earth, water, fire, wood, and metal are also mapped onto the traditional lunar calendar. Each year is associated with an animal that corresponds to an element. The 2022 Lunar New Year is the year of the water tiger. The water tiger occurs every 60 years.

Lunar New Year represents the most significant and festive holiday for many of the more than six million Asian American, Native Hawaiian, and Pacific Islander Californians. The celebration in communities throughout California reflects the rich cultural history and commitment to racial, religious, and cultural diversity. Many schools throughout the state organize related activities, and at least one school district, the San Francisco Unified School District, closes its schools in observance of the Lunar New Year.

This bill repeals the existing requirement that the Governor annually proclaim the date corresponding with the second new moon following the winter solstice as the Lunar New Year, and instead, includes that date in the list of state holidays. This bill authorizes eligible state employees to elect to receive eight hours of holiday credit for the Lunar New Year in lieu of receiving eight hours of personal holiday credit, similar to the existing authorization for eligible state employees to elect to use eight hours of their holiday credit for "Native American Day."

Unpaid/Paid holidays. California law does not require a private employer to provide its employees with paid holidays, that it closes its business on any holiday, or that employees be given the day off for any particular holiday. If an employer closes its business on holidays and gives its employees time off from work with pay, that occurred pursuant to a policy or practice adopted by the employer, pursuant to the terms of a collective bargaining agreement, or pursuant to the terms of an employment agreement between the employer and employee, as there is nothing in law that requires such a practice.

At the local level, cities have the liberty to specify by charter, ordinance or resolution what paid holidays the city will provide to its city employees. Similarly, most state workers are bound by the memorandum of understanding that they have negotiated with the Governor.

For all other state employees, they are entitled to the following holidays: January 1, the third Monday in January, the third Monday in February, March 31, the last Monday in May, July 4, the first Monday in September, November 11,

Thanksgiving Day, the day after Thanksgiving, December 25, a personal holiday after six months of work, and every day appointed by the Governor for a public fast, thanksgiving, or holiday.

This bill is similar to two bills approved earlier this legislative session by the Senate Governmental Organization Committee, AB 1655 (Jones-Sawyer, 2022) and AB 1801 (Nazarian, 2022). Each bill seeks to add a new state holiday and authorize eligible state employees to elect to utilize eight hours of personal holiday credit, as specified. Additionally, this bill excludes Lunar New Year from the list of designated judicial holidays.

Related/Prior Legislation

AB 1655 (Jones-Sawyer, 2022) adds June 19, known as "Juneteenth," to the list of state holidays and authorize state employees to elect to take time off with pay in recognition of Juneteenth, as specified. (Pending on the Senate Floor)

AB 1741 (Low, Chapter 41, Statutes of 2022) required the Governor to annually proclaim November 20 as "Transgender Day of Remembrance."

AB 1801 (Nazarian, 2022) adds April 24, known as "Genocide Awareness Day," to the list of state holidays and authorizes state employees to elect to take time off with pay, as specified. (Ordered to Engrossing and Enrolling)

SB 892 (Pan, Chapter 199, Statutes of 2018) required the Governor to annually proclaim the day of Lunar New Year, which occurs between January 21 and February 20, and encouraged all public schools and educational institutions to conduct exercises recognizing the traditions and cultural significance of the Lunar New Year.

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

According to the Senate Appropriations Committee, unknown potentially significant General Fund cost pressures, likely in the millions of dollars, to create another negotiable paid holiday for eligible state workers.

SUPPORT: (Verified 8/25/22)

California Attorney General, Rob Bonta
AAPI Equity Alliance
AFSCME, AFL-CIO
Asian Health Services
Asian Resources, Inc.

California Asian Pacific American Bar Association
California Commission on Asian and Pacific Islander American Affairs
California Healthy Nail Salon Collaborative
East West Bank
Greenlining Institute
Oakland Chinatown Chamber of Commerce
The Greenlining Institute

OPPOSITION: (Verified 8/25/22)

None received

ARGUMENTS IN SUPPORT: In support of this bill, the California Commission on Asian and Pacific Islander American Affairs writes that, "AB 2596 aligns with the Commission's mission to recognize the Asian American Californian experience to the forefront of California legislation. AB 2596 is an inclusive bill as it allows all Californians to recognize and celebrate the Lunar New Year as a holiday. Nearly two-thirds of all Asian Americans, mainly of Vietnamese, Chinese, Korean, and Japanese descent, celebrate Lunar New Year. As a societal action in the continued rise in anti-Asian American sentiment, both in hate crime and incident reporting, the CA Legislature can indeed send a powerful message of equity, unity, and solidarity with its Asian Americans, Native Hawaiian, and Pacific Islander communities."

ASSEMBLY FLOOR: 76-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Brian Duke / G.O. / (916) 651-1530
8/26/22 15:47:46

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

SENATE RULES COMMITTEE
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THIRD READING

Bill No: AB 2598
Author: Akilah Weber (D), et al.
Amended: 8/22/22 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 6/30/22
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, McGuire, Pan

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 72-0, 5/25/22 - See last page for vote

SUBJECT: Pupil rights: restorative justice practices

SOURCE: Disability Rights California

DIGEST: This bill requires the California Department of Education (CDE), on or before June 1, 2024, to develop and post on its website, evidence-based best practices for restorative justice practices for local educational agencies (LEA) to implement to improve campus culture and climate.

Senate Floor Amendment of 8/22/22 encourage the California Department of Education (CDE), to the extent feasible, to take into account resources and best practices that have been identified or developed as part of aligned efforts when developing best practices.

ANALYSIS:

Existing law

1) Specifies a pupil shall not be suspended from school or recommended for expulsion unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed specified acts in subdivision (a) – (r). (EC § 48900)

2) Authorizes the principal of a school or the district superintendent to suspend a pupil from a school for any of the reasons identified above for no more than five consecutive days, and requires that suspension be preceded by an informal conference where the pupil must be informed of the reasons for the disciplinary action, including other means of correction that were attempted before the suspension, and the evidence against them, and must be given the opportunity to present their own version and evidence in their defense. Also requires a school employee to make a reasonable effort to contact the pupil's parent or guardian in person or by telephone, and if the pupil is suspended from school, requires that the parent or guardian be notified in writing. (EC § 48911)

3) Requires that a suspension only be imposed when other means of correction fail to bring about proper conduct. Specifies that other means of correction enumerated in subdivision (a) – (h). may include, but are not limited to, the following: (EC § 48900.5)

4) Requires the principal or superintendent of schools to recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds unless it is determined that the expulsion should not be recommended under the circumstances or that an alternative means enumerated in subdivision (a) – (r). (EC § 48915)

5) Requires CDE to assess, among other things, whether an LEA has a policy that prohibits discrimination, harassment, intimidation, and bullying based on the actual or perceived characteristics as specified in Penal Code and disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group with one or more of these actual or perceived characteristics. (EC § 234.1)

6) Requires the Superintendent to post, and annually update the CDE's internet website and provide to each school district a list of statewide resources, including community-based organizations, that provide support to youth, and their families, who have been subjected to school-based discrimination, harassment, intimidation, or bullying, including school-based discrimination, harassment, intimidation, or bullying on the basis of religious affiliation, nationality, race, or ethnicity, or perceived religious affiliation, nationality, race, or ethnicity. (EC § 234.5)

This bill requires the CDE, on or before June 1, 2024, to develop and post on its website, evidence-based best practices for restorative justice practices for LEA to implement to improve campus culture and climate. Specifically, this bill:

1) Requires the CDE, by June 1, 2024, to develop evidence-based best practices for restorative justice practice implementation on a school campus and make these available on the CDE's website for use by LEAs to implement restorative justice practices as part of efforts to improve campus culture and climate.

2) Requires the CDE, in identifying best practices for effective, evidence-based restorative justice practices in elementary and secondary schools, to consult with all of the following:

   a) School-based restorative justice practitioners;

   b) Educators from public schools serving K-12;

   c) Pupils from public schools serving K-12;

   d) Community partners or community members; and

   e) Nonprofit and public entities.

3) Defines "local educational agency" to mean a school district, county office of education, or charter school.

Comments

1) *Need for the bill.* According to the author "Restorative practices and restorative justice methods allow for greater understanding and community healing in addressing youth behavior. These practices also emphasize building strong relationships among students, staff, teachers, administrators, and parents while creating safe, productive learning environments for all. Widespread concern about the climate and culture of our schools has caused some schools to implement restorative justice as an alternative way to deal with student behavior and conflict. However, there is no clear consensus about the best practices in developing, implementing, or measuring the outcomes of a restorative justice school program. AB 2598 would ensure that our educators and schools are equipped to effectively implement Restorative Justice Practices as an alternative to suspensions and expulsions. This bill would help address existing inequities within our public education system and improve school climate, which leads to increased attendance, reduced feelings of isolation, bullying, classroom disruption, truancy, antisocial behavior, and disputes among students."

2) *Restorative Justice in Schools.* In a 2019 study conducted by WestEd**,** *Restorative Justice in U.S. Schools, "*Educators across the United States have been looking to restorative justice as an alternative to exclusionary disciplinary actions. The popularity of restorative justice in schools has been driven in part by two major developments. First, there is a growing perception that zero-tolerance policies, popular in the United States during the 1980s– 1990s, have had a negative impact on students and schools, generally, and a particularly pernicious impact on Black students and students with disabilities. These policies, many argue, have increased the use of suspensions and other exclusionary discipline practices, to ill effect. For example, researchers reviewing data from Kentucky found that, after controlling for a range of other factors, suspensions explained 1/5 of the Black-White achievement gap. Secondly, restorative justice has gained popularity as a means of addressing disproportionalities in exclusionary discipline. For example, it was found that Black students were 26.2 percent more likely to receive out-of-school suspension for their first offense than White students.

   "In this manner, restorative justice is viewed as a remedy to the uneven enforcement and negative consequences that many people associate with exclusionary punishment," according to the study. Exclusionary discipline can leave the victim without closure and can fail to bring resolution to the harmful situation. In contrast, because restorative justice involves the victim and the community in the process, it can open the door for more communication and for resolutions to the situation that do not involve exclusionary punishments like suspension. Unlike punitive approaches which rely on deterrence as the sole preventative measure for misconduct, restorative justice uses community-building to improve relationships, thereby reducing the frequency of punishable offenses while yielding a range of benefits. There are a variety of practices that fall under the restorative justice umbrella that schools may implement. These practices include victim-offender mediation conferences; group conferences; and various circles that can be classified as community-building, peace-making, or restorative."

3) *California Department of Education (CDE).* In recent years there have been other statutory provisions designed to limit the use of suspensions and promote alternatives to suspension. These provisions aim to address the root causes of the student's behavior and to improve academic outcomes:

a) *Minimize Suspension for Attendance Issues:* It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a pupil who is truant, tardy, or otherwise absent from school activities.

b) *Instead of Suspension, Support:* A superintendent of the school district or principal is encouraged to provide alternatives to suspension or expulsion, using a research-based framework with strategies that improve behavioral and academic outcomes, that are age-appropriate and designed to address and correct the pupil's misbehavior.

   The state has also established a Multi-Tiered System of Supports (MTSS), which includes restorative justice practices, trauma-informed practices, social and emotional learning, and schoolwide positive behavior interventions and support, that may be used to help students gain critical social and emotional skills, receive support to help transform trauma-related responses, understand the impact of their actions, and develop meaningful methods for repairing harm to the school community.

c) *Suspension as a Last Resort:* Suspension shall be imposed only when other means of correction fail to bring about proper conduct and then continues to provide an extensive list of suggested positive, non-exclusionary alternative practices. Other means of correction may include additional academic support, to ensure, for example, that instruction is academically appropriate, culturally relevant, and engaging for students at different academic levels and with diverse backgrounds.

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

According to the Senate Appropriations Committee, the CDE estimates one-time General Fund costs of approximately $500,000 to develop the evidence-based best practices for restorative justice in schools and make it available online. This estimate also includes the cost to select the advisory committee to advise CDE in the development of the best practices. Depending on the practices that are developed, local school districts may incur additional, unknown costs to implement them on school campuses.

SUPPORT: (Verified 8/22/22)

Black Leadership Council
California Alliance of Child and Family Services
California Association for Bilingual Education

California Catholic Conference
California Charter School Association
California Federation of Teachers
California High School Democrats
California State Parent Teacher Association
Californians Together
Disability Right CA
Friends Committee on Legislation of California
National Association of Social Workers, California Chapter
San Diego County Office of Education
San Diego Unified School District
San Francisco Unified School District
Sycamores
Vista Del Mar Child and Family Services

OPPOSITION: (Verified 8/22/22)

None received

ARGUMENTS IN SUPPORT: According to the California Alliance of Child and Family Services "AB 2598 would ensure that our educators and schools are equipped to effectively implement Restorative Justice Practices as an alternative to suspensions and expulsions. This bill would help address existing inequities within our public education system and improve school climate, which leads to increased attendance, reduced feelings of isolation, bullying, classroom disruption, truancy, antisocial behavior, and disputes among students."

ASSEMBLY FLOOR: 72-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Berman, Gallagher, Kiley, Lackey, O'Donnell, Seyarto

Prepared by: Kordell Hampton / ED. / (916) 651-4105
8/23/22 15:11:42

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

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THIRD READING

Bill No: AB 2604
Author: Calderon (D)
Amended: 8/24/22 in Senate
Vote: 21

SENATE INSURANCE COMMITTEE: 11-0, 6/22/22
AYES: Rubio, Jones, Bates, Borgeas, Dodd, Glazer, Hertzberg, Hueso, Melendez, Portantino, Roth
NO VOTE RECORDED: Hurtado

SENATE HEALTH COMMITTEE: 10-0, 6/29/22
AYES: Pan, Melendez, Eggman, Grove, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Gonzalez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 73-0, 5/25/22 (Consent) - See last page for vote

SUBJECT: Long-term care insurance

SOURCE: Association of California Life and Health Insurance Companies
National Association of Insurance and Financial Advisors – California

DIGEST: This bill requires long-term care (LTC) insurance providers certified by the California Partnership for Long-Term Care Program (Partnership) to provide lower-cost inflation adjustment options.

Senate Floor Amendments of 8/24/22 add flexibility to the new inflation escalator this bill would require by allowing the escalator to be either 3% of the policy benefit over the previous year or 5% of the original policy benefit.

ANALYSIS:

Existing law:

1) Establishes the Partnership, administered by the State Department of Health Care Services (DHCS).

2) Provides for the regulation of LTC insurance by the California Department of Insurance (CDI) and prescribes various requirements and conditions governing the delivery of individual or group LTC insurance in the state.

3) Establishes the Medi-Cal program, administered by the DHCS, under which low-income individuals are eligible for LTC services.

4) Requires DHCS to claim against the estate of a deceased Medi-Cal beneficiary an amount equal to the payments for medical and LTC services received up to the value of the estate (known as estate recovery), subject to certain exceptions.

5) Establishes the partnership within the DHCS to link private LTC insurance with Medi-Cal and In-Home Supportive Services (IHSS) program eligibility requirements and Medi-Cal estate recovery.

6) Requires that policies certified by the Partnership program be approved by CDI as compliant with most, but not all, provisions the Insurance Code applicable to LTC insurance.

7) Disregards an equivalent value of qualified benefits received under a certified Partnership policy for the purposes of determining eligibility in the Medi-Cal or IHSS programs and in determining the amount subject to estate recovery (known as “asset protection”).

8) Requires that policies and plans certified by the partnership also contain the following benefits or features:

   a) Individual assessment and case management by a coordinating entity designated and approved by DHCS.

   b) Inflation protection (existing regulations require a minimum 5% annual compound inflation escalator).

c) A periodic explanation of insurance payments or benefits paid that count toward Medi-Cal asset protection.

d) Compliance with applicable regulations adopted by DHCS or DSS.

This bill:

1) Adjusts requirements for policies to get Partnership certification. Specifically adds a lower-cost inflation protection option to provide, at a minimum, protection against inflation that automatically increases benefit levels by 3 percent each year over the previous year, or a fixed amount each year equal to 5% of the original benefit levels.

2) Requires insurers to offer a 1 percent inflation protection adjuster for policyholders who are 70 years or older, as specified.

3) Allows a policy to maintain partnership certification if it is converted to a nonforfeiture benefit or contingent benefit upon lapse of the policy.

4) Requires, if a premium increases, insurers to offer policyholders specified options to reduce coverage or lower premiums. These are:

   a) To reduce the daily benefit to 70 percent of the average daily private pay rate for a nursing facility, as identified by the department, on the date the offer is sent or provided.

   b) Reduce the daily benefit by 25 percent, rounded up or down to the closest daily benefit level on the insurer's approved rate schedule.

   c) Reduce the benefit duration to the lowest duration on the insurer's approved rate schedule, but not below 12 months.

   d) Reduce the benefit duration to the next highest duration on the insurer's approved rate schedule, relative to the current duration, but not below 12 months.

   e) Increase the elimination period to 90 days for a policy or certificate with an elimination period of less than 90 days. (Elimination is the length of time between injury and illness and the beginning of receiving benefit payments.)

   f) Convert a policy or certificate to a minimum coverage policy, if the insurer offers such a policy for sale in California.

g) Reduce the protection against inflation to a lower-cost option that automatically increases benefit levels by 3 percent each year over the previous year. If the policyholder or certificate holder is 70 years of age or older and has experienced a 50-percent or greater increase in premium over the life of the policy or certificate, the insurer shall also offer protection against inflation that automatically increases benefit levels by 1 percent each year over the previous year.

5) Requires an offer made pursuant to #4 above to reduce protection against inflation to allow a policyholder or certificate holder, regardless of the issue date, issue age, or present age, to retain the accrued daily, weekly, monthly, and lifetime benefit amounts in effect at the time of the reduction.

6) Makes other technical changes.

Background

According to the author,

> Expenses related to long-term care often become financially burdensome for individuals and their families. This is especially true for those who do not qualify for Medi-Cal, but who also aren't able to afford long-term care expenses out-of-pocket. AB 2604 clarifies existing law by requiring long-term care insurance providers participating in the Partnership to provide low-cost policies with a 3% compound inflation rider. In addition, AB 2604 provides ways for existing policyholders to mitigate a premium increase while retaining Partnership status.

Partnership. Early in the 1990s, four states (California, Connecticut, Indiana and New York) joined with the federal government to establish the four original partnership programs. The federal Deficit Reduction Act of 2005 opened the door for more states to establish their own programs and currently most states operate partnership programs. In California, the Partnership is jointly administered by CDI and DHCS as stated above under existing law.

Through the Partnership, individuals can purchase LTC insurance that provides certain benefits with respect to the state's Medi-Cal program. LTC insurance policies are issued by participating private insurance companies, not the state.

Partnership policies were intended to target middle-class consumers whose pension and savings are adequate for retirement so long as they do not experience a serious chronic disability. This approach was intended to encourage financial planning and

gave consumers a way to preserve some assets if their LTC insurance coverage runs out and the consumer becomes impoverished and qualifies for Medi-Cal.

Unfortunately, middle class consumers the program was intended to help now have trouble affording the policies. The inflation protection standards required by DHCS regulations make partnership policies unaffordable to all but the most affluent retirees. In 2007, the US Government Accountability Office released a study of the original partnership states and concluded that many of the consumers who could afford to purchase a partnership policy would never qualify for or use Medi-Cal, which undermines the purpose of the Partnership.

Originally, the first four partnership states required a 5% compound escalator to adjust for inflation, but now there are a variety of options in other states. For example, the New York State partnership program, one of the original partnership states, offers a 3% inflation escalator. Recent amendments add flexibility to the 3% inflation escalator this bill would create, by adding an additional option. Instead of a 3% increase an increase equal to 5% of the original benefit level may be offered.

Related/Prior Legislation

SB 1384 (Liu, Chapter 487, Statutes of 2016) established a taskforce to advise DHCS on the operation of the Partnership and revised the requirements for partnership policies. SB 1384 required Partnership policies to provide consumers with at least two inflation protection options (5% annual compound inflation protection or a less expensive inflation protection option). It required insurers offering Partnership policies to provide the consumer with graph illustrations identifying the difference in premium expenses and benefit levels associated with each inflation protection option.

AB 567 (Calderon, Chapter 746, Statutes of 2019) established the Long Term Care Insurance Task Force (Task Force) in the DOI to explore the feasibility of developing and implementing a culturally competent statewide insurance program for LTSS.

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

SUPPORT: (Verified: August 25, 2022)

Association of California Life & Health Insurance Companies (co-source)
National Association of Insurance and Financial Advisors – California (co-source)
AARP
California Department of Insurance
California Retired Teachers Association

OPPOSITION: (Verified: August 25, 2022)

None received

ARGUMENTS IN SUPPORT: The Association of California Life and Health Insurance Companies (ACLHIC) and the National Association of Financial Advisors of California (NAIFA-California), sponsors of the measure, write in a joint letter:

> Existing statutes require California Partnership for Long-Term Care (CA LTC) policies to contain a 5% compound inflation rider. Such policies have become unaffordable for many, especially for lower and middle-income families. The result is that sales have ceased, and many insurance companies have stopped participating in the program.
>
> For the good of existing policyholders and future policyholders, the Partnership needs to provide less expensive inflation options for their policies to become once again saleable and protect Californians. Legislation passed in 2016 (SB 1384) required Partnership policies to offer a lower-cost inflation protection at the time of application, in addition to a minimum 5% compound inflation escalator currently required. However, a question remains as to what is a "lower cost option" and whether these alternative policies will maintain their Partnership status.

Also in support, the California Retired Teachers association, "believes retirees should be given reasonable options if long-term care policy changes are needed. This measure will empower retirees with more options."

ASSEMBLY FLOOR: 73-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Berman, Bloom, Irwin, O'Donnell, Blanca Rubio

Prepared by: Brian Flemmer / INS. / (916) 651-4110
8/26/22 15:47:47

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

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THIRD READING

Bill No: AB 2626
Author: Calderon (D), et al.
Amended: 8/24/22 in Senate
Vote: 27 - Urgency

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 9-3, 6/13/22
AYES: Roth, Becker, Dodd, Eggman, Hurtado, Leyva, Min, Newman, Pan
NOES: Melendez, Bates, Jones
NO VOTE RECORDED: Archuleta, Ochoa Bogh

SENATE HEALTH COMMITTEE: 8-2, 6/30/22
AYES: Pan, Eggman, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NOES: Melendez, Grove
NO VOTE RECORDED: Gonzalez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 56-15, 5/23/22 - See last page for vote

SUBJECT: Medical Board of California: licensee discipline: abortion

SOURCE: Author

DIGEST: This bill prohibits the Medical Board of California (MBC), the Osteopathic Medical Board (OMBC), the Board of Registered Nursing (BRN), and the Physician Assistant Board (PAB) from suspending or revoking the certificate, or denying an application for licensure, of a physician and surgeon, nurse practitioner (NP), certified nurse-midwife (CNM), or physician assistant (PA) solely for performing an abortion in accordance with existing California law. This bill would also prohibit these boards from imposing such discipline on the aforementioned licensees if they are disciplined or convicted in another state in which they are licensed or certified solely for performing abortions in that state.

Senate Amendments of 8/23/22 make technical changes to resolve chaptering conflicts with SB 1495 (Senate Committee on Business, Professions, and Economic Development) and add a coauthor.

ANALYSIS:

Existing law:

1) Establishes various practice acts in the Business and Professions Code (BPC) governed by various boards within the Department of Consumer Affairs (DCA) which provide for the licensing and regulation of health care professionals including: physicians and surgeons (under the Medical Practice Act); osteopathic physicians and surgeons (under the Osteopathic Medical Practice Act); NPs and CNMs (under the Nursing Practice Act); and PAs (under the Physician Assistant Practice Act). (BPC §§ 2000 et seq.; 2099.5 et seq.; 2700 et seq.; 3500 et seq.)

2) Establishes the Reproductive Privacy Act which finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions, and states that it is the public policy of the State of California that:

   a) Every individual has the fundamental right to choose or refuse birth control;

   b) Every woman has the fundamental right to choose to bear a child or to choose and to obtain an abortion, except as specifically limited by law; and,

   c) The state cannot deny or interfere with a woman's fundamental right to choose to bear a child or to choose to obtain an abortion, except as specifically permitted by law. (Health and Safety Code (HSC) § 123462)

3) Defines the following for purposes of the Reproductive Privacy Act:

   a) "Abortion" means any medical treatment intended to induce the termination of a pregnancy except for the purpose of producing a live birth;

   b) "Pregnancy" means the human reproductive process, beginning with the implantation of an embryo;

   c) "State" means the State of California, and every county, city, town and municipal corporation, and quasi-municipal corporation in the state; and,

   d) "Viability" means the point in a pregnancy when, in the good faith medical judgment of a physician, on the particular facts of the case before that

physician, there is a reasonable likelihood of the fetus' sustained survival outside the uterus without the application of extraordinary medical measures. (HSC § 123464)

4) Provides that the State may not deny or interfere with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the woman. (HSC § 123466)

5) Provides that failure to comply with the Reproductive Privacy Act in performing, assisting, procuring or aiding, abetting, attempting, agreeing or offering to procure an illegal abortion constitutes unprofessional conduct. (BPC § 2253 (a))

This bill:

1) Prohibits the MBC and the OMBC from suspending or revoking the certificate of a physician and surgeon solely for performing an abortion in accordance with the provisions of the Medical Practice Act and the Reproductive Privacy Act.

2) Prohibits the BRN and PAB from suspending or revoking the certification or license of an NP, CNM, or PA, solely for performing an abortion so long as they performed the abortion in accordance with the provisions of the Nursing Practice Act or the Physician Assistant Practice Act, and the Reproductive Privacy Act.

3) Prohibits these boards from denying an application for licensure or certification, or from suspending, revoking, or otherwise imposing discipline upon a physician and surgeon, NP, CNM, or PA licensed or certified in California for either of the following:

   a) The individual is licensed or certified to practice medicine, midwifery, nursing, or physician assistantship in another state and was disciplined in that state solely for performing an abortion in that state.

   b) The individual is licensed or certified to practice medicine, midwifery, nursing, or physician assistantship in another state and was convicted in that state for an offense related solely to the performance of an abortion in that state.

4) States that it is an urgency statute necessary to take effect immediately because in response to the draft opinion of the United States Supreme Court stating that it would overrule the *Roe v. Wade* decision, several states around the nation are

poised to allow professional boards to take disciplinary action against a health care provider for coordinating or providing abortion care, and it is to protect physicians, surgeons, CNMs, NPs, and PAs.

Background

The Reproductive Privacy Act codified the constitutional principles of *Roe v. Wade* and replaced in its entirety the Therapeutic Abortion Act. In 1967, Governor Ronald Reagan signed the Therapeutic Abortion Act, which expanded legal abortion in California under very restrictive criteria. Most of those restrictions were subsequently ruled unconstitutional in the 1972 California Supreme Court case, *People v. Barksdale* (1972) 8 Cal.3d 320, 105 Cal.Rptr 1. The United States Supreme Court issued its landmark *Roe v. Wade* (1973) 410 U.S. 959, 35 L.Ed.2d 694, and *Doe v. Bolton*, decisions in 1973, which invalidated two of the three remaining provisions of the Therapeutic Abortion Act.

Although *Roe* and *Barksdale* rendered much of the Therapeutic Abortion Act obsolete, the Therapeutic Abortion Act itself was not repealed by the Legislature until 2003, pursuant to SB 1301 (Kuehl, Chapter 385, Statutes of 2002) the Reproductive Privacy Act. One rationale for the passage of this Act was the concern that the United States Supreme Court may overturn *Roe v. Wade*, and it would, therefore, be important to have a state law which would protect reproductive rights in the State of California. The Reproductive Privacy Act expressly granted every woman in California with the fundamental right to choose to bear a child or to choose and to obtain an abortion. Under the Reproductive Privacy Act, the state may not deny or interfere with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the woman.

The Supreme Court ruled to overturn *Roe* in *the Dobbs v. Jackson Women's Health Organization* decision on June 24, 2022, but even prior to this controversial ruling, recent judicial action in the United States cast uncertainty on the security of the protections memorialized in *Roe*. In 2021, the Texas Legislature passed Senate Bill 8, referred to as the Texas Heartbeat Act. This bill criminalized abortion after the detection of embryonic or fetal cardiac activity, essentially banning abortion after approximately six weeks. The constitutionality of this bill was challenged in *Whole Woman's Health v. Jackson*, which sought to enforce the *Roe* precedent and overturn Senate Bill 8. However, the Court declined to enjoin the law, which many pro-choice advocates viewed as portents of the recent decision by the Court

to overturn the protections outlined in *Roe*. Now with *Roe* overturned by the Court, protections for reproductive rights must be decided solely by the states.

Since the overturning of *Roe*, 14 states now have full or six-week abortion bans in place, two states have 15 or 18 week gestational limits for abortion (Florida and Utah), and three states (Idaho, Indiana, and Tennessee) are expected to ban abortion in the near future. Bans on abortion have been temporarily blocked in five states. Abortion is still tentatively legal in seven states, and legally protected in 21 states (including California) and the District of Columbia. In most states where abortion is banned, performing an abortion is considered a punishable felony, where health practitioners may be sued or fined, lose their license, and potentially face imprisonment.

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

SUPPORT: (Verified 8/23/22)

California Attorney General Rob Bonta
California Lieutenant Governor Eleni Kounalakis
California State Controller Betty Yee
Access Reproductive Justice
Advancing New Standards in Reproductive Health
American College of Obstetricians and Gynecologists District Ix
Board of Registered Nursing
California Academy of Family Physicians
California Latinas for Reproductive Justice
California Legislative Women's Caucus
California Medical Association
California Nurse Midwives Association
California Nurses Association
California State Council of Service Employees International Union
California Women's Law Center
Citizens for Choice
City of Los Angeles
Essential Access Health
L.A. Care Health Plan
Los Angeles County Democratic Party
Medical Board of California
NARAL Pro-Choice California
National Council of Jewish Women-California
Planned Parenthood Affiliates of California

Stanford Health Care
University of California
Women's Foundation California

OPPOSITION: (Verified 8/23/22)

Right to Life League

ARGUMENTS IN SUPPORT: Supporters state that this bill is necessary because California medical licensees who perform abortions and hold out-of-state licenses in states with restricted abortion access may face revocation or suspension of their out-of-state medical license. Current California law allows for California healthcare practitioner boards to discipline California licensees for out-of-state discipline. Supporters assert that this bill will ensure that health practitioners are able to continue to provide reproductive health care, such as abortion, in California even if licensees face discipline in other states for providing these services.

Supporters note that "Should the Court overturn Roe, over 36 million women and other people who may become pregnant will lose access to abortion care nationwide. Furthermore, 26 states are certain or more likely to ban abortion, increasing the number of out-of-state individuals of reproductive age who would find their nearest clinic in California from 46,000 to 1.4 million – a nearly 3,000 percent increase. AB 2626 remedies these issues by prohibiting the removal or suspension of medical licenses for performing abortions within California or out-of-state."

ARGUMENTS IN OPPOSITION: The Right to Life League writes in opposition and notes, "AB 2626 treats abortion as a sacred cow, as untouchable. That is because California is fast becoming the Abortion Tourism destination of the nation.

"In the California Senate Business, Professions and Economic Development Committee, on Monday, June 27, 20221, Lori Kime, Vice President of Business Development for Planned Parenthood of the Pacific Southwest, testified that Planned Parenthood operates 19 centers in Imperial, Riverside and San Diego counties, providing 250,000 patient visits each year. She stated that California Planned Parenthood centers are 'seeing on average 1500 patients from out of state every month on top of typical patient volume.'

"Using her figures, we can safely say that Planned Parenthood alone performs at least 18,000 abortions every year just in one region of our state. That's very big

business. Polls show that 58% of Americans oppose or strongly oppose using tax payer dollars to fund abortion on demand."

ASSEMBLY FLOOR: 56-15, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Voepel, Waldron
NO VOTE RECORDED: Berman, Mia Bonta, Chen, Choi, Cunningham, O'Donnell, Blanca Rubio

Prepared by: Hannah Frye & Sarah Mason / B., P. & E.D. /
8/26/22 15:47:47

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

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THIRD READING

Bill No: AB 2632
Author: Holden (D), et al.
Amended: 8/17/22 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 6/28/22
AYES: Bradford, Kamlager, Skinner, Wiener
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 49-21, 5/25/22 - See last page for vote

SUBJECT: Segregated confinement

SOURCE: California Collaborative for Immigrant Justice
Disability Rights California
Immigrant Defense Advocates
Initiate Justice
Next Gen California
Prison Law Office

DIGEST: This bill (1) codifies a definition for "segregated confinement" that applies to the state's prisons, county jails, detention facilities, and private detention facilities; (2) limits the use of segregated confinement to no more than 15 consecutive days and no more than 45 days total in a 180-day period; (3) prohibits the use of segregated confinement if the person belongs to a special population, as defined; (4) establishes procedures related to the use of segregated confinement; and (5) establishes reporting requirements when segregated confinement is used.

Senate Floor Amendments of 8/17/22 add co-authors.

ANALYSIS:

Existing law:

1) Grants all people certain inalienable rights, including pursing and obtaining safety, happiness, and privacy. (Cal. Const., Art. I, § 1.)

2) Prohibits the deprivation of life, liberty, or property without due process of law or the denial of equal protection of the laws. (Cal. Const., Art. I, § 7.)

3) Prohibits the infliction of cruel and unusual punishment. (Cal. Const., Art. I, § 17.)

4) Establishes rights for persons sentenced to imprisonment in a state prison, and provides that a person may, during that period of confinement be deprived of such rights, and only such rights, as is reasonably related to legitimate penological interests. (Pen. Code, § 2600.)

5) Prohibits the use of any cruel, corporal or unusual punishment or to inflict any treatment or allow any lack of care whatever which would injure or impair the health of the prisoner, inmate or person confined. (Pen. Code, § 2652.)

6) Authorizes CDCR to prescribe and amend rules and regulations for the administration of the prisons. (Pen. Code, § 5058.)

7) Requires the Director of CDCR to classify and assign an inmate to the institution of the appropriate security level and gender population nearest the inmate's home, unless other classification factors make such a placement unreasonable. (Pen. Code, § 5068.)

8) Requires the Board of State and Community Corrections (BSCC) to establish minimum standards for local correctional facilities. (Pen. Code, § 6030.)

9) Requires the sheriff to receive all persons committed to jail by competent authority and the board of supervisors to provide the sheriff with necessary food, clothing, and bedding, for those prisoners, which shall be of a quality and quantity at least equal to the minimum standards and requirements prescribed by the BSCC for the feeding, clothing, and care of prisoners in all county, city and other local jails and detention facilities. (Pen. Code, § 4015.)

10) Requires private local detention facilities to follow the minimum standards for local correctional facilitates established by the BSCC. (Pen. Code, § 6031.6, subd. (c).)

11) Limits the confinement of a minor in a locked room or cell with minimal or no contact with persons, as specified, and sets forth the guidelines for the use of room confinement of a minor in a juvenile facility. (Welf. & Inst. Code, § 208.3.)

This bill:

1) Defines "facility" to means any of the following facilities in California: private detention facilities; jails and prisons; detention facilities; and any facility in which individuals are subject to confinement or involuntary detention. Defines "detention facility" to mean 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. Defines "private detention facility" to mean a detention facility that is operated by a private, nongovernmental, for-profit entity and is operating pursuant to a contract or agreement with a local, state, or federal governmental entity.

2) Defines "segregated confinement" as the confinement of an individual, in a cell or similarly confined holding or living space, alone or with other individuals, with severely restricted activity, movement, or minimal or no contact with persons other than correctional facility staff for more than 17 hours per day. Provides that segregated confinement is determined by time spent in a cell and contact with persons other than correctional facility staff.

3) Provides that segregated confinement does not apply to extraordinary, emergency circumstances that require a significant departure from normal institutional operations, including a natural disaster or facility-wide threat that poses an imminent and substantial risk of harm. Provides that this exception applies for the shortest amount of time needed to address the imminent and substantial risk of harm.

4) Prohibits a facility from holding an individual in segregated confinement for more than 15 consecutive days and no more than 45 days total in a 180-day period. Requires a facility to transfer the individual out of segregated confinement to an appropriate congregate or individual setting on or before the 15th consecutive day in segregated confinement. Requires the facility to allow the individual at least six hours of daily out-of-cell congregate programming, services, treatment, and meals, with an additional minimum of one hour of congregate recreation, whether held in a congregate or individual setting.

5) Prohibits a facility from involuntarily placing an individual in segregated confinement, including for disciplinary reasons, if the individual belongs to a special population. Defines "special population" to mean a person who: is 25 years of age or younger, not including persons protected by Section 208.3 of the Welfare and Institutions Code; is 60 years of age or older; has a mental or physical disability or a serious mental disorder, as defined; or, is pregnant or in the first eight weeks of the postpartum recovery period, or has recently suffered a miscarriage or terminated a pregnancy.

6) Requires every facility to develop and follow written procedures governing the management of segregated confinement that also meet the standards of care of the type of facility.

7) Requires every facility to document the use of segregated confinement, as specified.

8) Requires the facility to do all of the following when an individual is placed in segregated confinement: document the facts and circumstances that led to placing the individual into segregated confinement; document the date and time that the individual was placed into segregated confinement; notify its medical or mental health professionals in writing within 12 hours of placing an individual in segregated confinement; check on the individual involuntarily placed in segregated confinement at least twice per hour and monitor the person every 15 minutes or more frequently if the individual is demonstrating unusual behavior or has indicated suicidality or self-harm, unless a medical or mental health professional recommends more frequent checks; assess the individual placed in segregated confinement every 24 hours by a medical or mental health professional and every 48 hours by a mental health professional for ongoing placement in segregated confinement; provide the individual a clear explanation of the reason they have been placed in segregated confinement, the monitoring procedures that the facility will employ to check the individual, and the date and time of the individual's next court date, if applicable; and offer out-of-cell programming to a person in segregated confinement at least four hours per day, including at least one hour for recreation, as specified.

9) Prohibits a facility from imposing limitation on services, treatment, or basic needs, such as clothing, food, and bedding. Prohibits a facility from imposing restricted diets or any other change in diet as a form of punishment. Prohibits an individual from being denied access to their legal counsel or representative while in segregated confinement. Prohibits a facility from using additional

shackles, legcuffs, double lock leg irons, or other restrictive means when an individual is in segregated confinement, as specified, unless an individual assessment is documented that restraints are required because of an imminent, significant, and unreasonable risk to the safety and security of other detained persons or staff.

10) Prohibits a facility from sending a detained person to segregated confinement as a means of protection from the rest of the detained population or alternative means of separation from a likely abuser. Prohibits a facility from placing a person in segregated confinement solely on the basis of confidential information considered by the facility staff but not provided to the individual placed in segregated confinement or included in required records. Prohibits a facility from placing a person in segregated confinement solely on the basis of the person identifying as lesbian, gay, bisexual, transgender, or gender nonconforming.

11) Allows a facility to use segregated confinement for medical isolation purposes, to treat and protect against the spread of a communicable disease for the shortest amount of time required to reduce the risk of infection, in accordance with state and federal public health guidance and with the written approval of a licensed physician or nurse practitioner.

12) Requires each facility to create reports regarding the use of segregated confinement, as specified.

13) Requires the Office of the Inspector General (OIG) to annually assess each CDCR facility as well as private detention facilities for compliance relating to segregated confinement, and to issue an annual public report, as specified. Requires the BSCC to annually assess each local correctional facility, including private detention facilities, for compliance relating to segregated confinement, and to issue an annual public report with recommendations to the Legislature regarding all aspects of segregated confinement in correctional facilities, as specified.

14) Includes a severability clause.

Background

There are no clear standards or limits on the use of segregated confinement in detention facilities operated by state or local governments which are codified in statute. The use of segregated confinement varies depending on the type of facility in which a person is detained. This bill provides a definition of segregated

confinement that applies to the state's prisons, jails, detention facilities, and private detention facilities, establishes limitations on its use, and requires documentation of its use.

County jails have broad discretion to use segregated confinement. Regulations require each county jail facility administrator to develop written policies and procedures for administrative segregation. (Cal. Code Regs., tit. 15, § 1053.) Administrative segregation consists of separate and secure housing but is prohibited from involving any other deprivation of privileges than is necessary to obtain the objective of protecting the inmates and staff. Regulations allow county jails to take punitive action for a rule infraction, including disciplinary separation. (Cal. Code Regs., tit. 15, § 1082.) If an individual is on disciplinary separation status for 30 consecutive days there must be a review by the facility manager before the disciplinary separation status is continued, and the review must include a consultation with health care staff. (Cal. Code Regs., tit. 15, § 1083.)

CDCR possesses broad discretion regarding the use of solitary confinement, administrative segregated housing, or other forms of isolated placement, including for individuals who violate criminal or administrative statutes or whose presence in an institution's general population presents an immediate threat to the safety of the inmate or others, endangers institution security, or jeopardizes the integrity of an investigation of an alleged serious misconduct or criminal activity.

In 2015, California settled *Ashker v. Governor of California*, a class-action lawsuit brought on behalf of a group of Pelican Bay State inmates who had each spent at least a decade in isolation. (CCR, *Summary of Ashker v. Governor of California Settlement Terms* <https://ccrjustice.org/sites/default/files/attach/2015/08/2015-09-01-Ashker-settlement-summary.pdf .) The settlement was intended to end the practice of isolating prisoners who have not violated prison rules, cap the length of time a prisoner can spend in solitary confinement, and provide a restrictive but not isolating alternative for the minority of prisoners who continue to violate prison rules on behalf of a gang. (*Ibid*.) The *Ashker* agreement was first extended in 2019 by the federal court, based on a finding that CDCR was "effectively frustrating the purpose" of the settlement agreement by systemically violating due process rights. (CCR, *Court Finds Continued Systemic Constitutional Violations in California Prisons* (Feb. 3, 2022) <https://ccrjustice.org/home/press-center/press-releases/court-finds-continued-systemic-constitutional-violations-california .) In February 2022, the court determined that CDCR was continuing to systematically violate the due process rights of inmates despite the *Ashker* agreement and extended the agreement for a second one-year term. (*Ibid*.)

This bill also applies to private detention facilities which the bill defines as a detention facility that is operated by a private, nongovernmental, for-profit entity, and is operating pursuant to a contract or agreement with a local, state, or federal governmental entity. As such, this bill applies to private detention facilities that are operated by private, nongovernmental entities pursuant to contracts with the federal government, including but not limited to, the Bureau of Prisons, the U.S. Marshalls Service, and U.S. Immigrations Customs Enforcement. California is permitted to regulate private facilities that are not under the control of the federal government, and can regulate federal detention facilities to the extent that the regulation does not disturb federal arrest or detention decisions. (*United States v. California* (2019) 921 F.3d 865, 885.)

Arguably, California's authority to legislate regarding private detention facilities located within the state and contracted by the federal government remains an open question. In *Geo Grp. Inc. v. Newsom* (2021) 15 F.4th 919, the federal government and a private company contracted by the federal government to operate some of its detention facilities challenged AB 32 (Bonta), Chapter 739, Statutes of 2019, which would have phased out all private detention facilities within California, including those contracted with the federal government. California argued that AB 32 was a valid exercise of its police powers because the well-being of detainees falls within a state's traditional police powers. (*Ibid*.) The Ninth Circuit rejected that argument, explaining that California was not simply exercising its traditional police powers, but rather impeding federal immigration policy. (*Ibid*.) Following this decision, the defendant-appellees filed a petition for a rehearing *en banc* which was granted. The *en banc* rehearing was held on June 21, 2022, and the outcome is pending.

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

According to the Senate Appropriations Committee:

- CDCR reports a one-time cost $775 million to double the programming space at each institution and a one-time cost of up to $512 million to expand exercise yards by approximately 50%. CDCR further reported an increase in custody staffing required to effectively implement the bill at $6.5 million at each institution. Across the 31 institutions, this would total approximately $200 million annually and ongoing (General Fund).

- The OIG reports ongoing costs of approximately of $3.8 million to establish 25 new permanent positions within the agency in order to assess CDCR facilities regarding all aspects of segregated confinement and issue an annual report to the Legislature with findings and recommendations (General Fund).

- The BSCC reports ongoing costs of approximately $250,000 annually for additional staff resources to assess compliance with the segregated confinement provisions of this bill and report to the Legislature with findings and recommendations (General Fund).

- Unknown, potentially significant costs to the Civil Law Division and the Correctional Law Section within the DOJ to litigate legal challenges from individuals subjected to segregated confinement against CDCR (Special Fund - Legal Services Revolving Fund). Although this bill will impact the Legal Services Revolving Fund, costs should be offset by direct billings to CDCR.

- *Local Reimbursements:* Unknown, potentially reimbursable costs, possibly in the tens of millions of dollars in increased correctional staff and additional space to counties to ensure compliance with the requirements of this bill (Local Funds, General Fund). Counties may not have enough jail space to accommodate the yard time and programming requirements of this bill and therefore may require additional funds to construct new space.

SUPPORT: (Verified 8/17/22)

California Collaborative for Immigrant Justice (co-source)
Disability Rights California (co-source)
Immigrant Defense Advocates (co-source)
Initiate Justice (co-source)
NextGen California (co-source)
Prison Law Office (co-source)
ACLU California Action
Advancement Project
Alianza Sacramento
Alliance for Boys and Men of Color
Alliance of Californians for Community Empowerment
Alliance San Diego
Asian Americans Advancing Justice – California
Asian Pacific Environmental Network
Black Women for Wellness
Bread for the World
Breast Cancer Prevention Partners
CA Now
California Attorneys for Criminal Justice
California Calls
California Catholic Conference

California Collaborative for Immigrant Justice
California Domestic Workers Coalition
California Donor Table
California Employment Lawyers Association
California Environmental Justice Alliance
California Environmental Voters
California Food and Farming Network
California Immigrant Policy Center
California Innocence Coalition: Northern California Innocence Project, California Innocence Project, Loyola Project for the Innocent
California Labor Federation
California League of Conservation Voters
California Low-Income Consumer Coalition
California Pan-Ethnic Health Network
California Public Defenders Association
California Reinvestment Coalition
California Rural Legal Assistance Foundation
Californians for Safety and Justice
Californians United for a Responsible Budget
Center for Responsible Lending
Center on Race, Poverty & the Environment
Central Valley Immigrant Integration Collaborative
Child Care Law Center
Coalition for Humane Immigrant Rights
Consumer Attorneys of California
Council on American-Islamic Relations, California
Courage California
Drug Policy Alliance
EarthJustice
Ella Baker Center for Human Right
Environment California
Equal Rights Advocates
Equality California
Essie Justice Group
Freedom for Immigrants
Fresno Barrios Unidos
Friends Committee on Legislation of California
GRACE
Health Access California
Housing Now! CA

Indivisible CA: StateStrong
Latino Coalition for a Healthy California
Leadership Counsel for Justice & Accountability
League of Women Voters of California
Legal Aid at Work
Los Angeles County District Attorney's Office
Lutheran Office of Public Policy
Mexican American Legal Defense and Education Fund
Mujeres Unidas y Activas
NARAL Pro-Choice California
National Association of Social Workers, California Chapter
Oakland Privacy
Patriotic Millionaires
PICO California
Planned Parenthood Affiliates of California
PolicyLink
Power California
Public Advocates
Root & Rebound
Secure Justice
SEIU California
Services, Immigrant Rights and Education Network
Showing Up for Racial Justice Bay Area
Sierra Club California
Smart Justice California
Sustainable Economies Law Center
UFCW-Western States Council
UnCommon Law
University of San Francisco Immigration Policy Clinic
Voices for Progress
Western Center on Law & Poverty
Worker-Owned Recovery California Coalition
Young Invincibles

OPPOSITION: (Verified 8/17/22)

California Association of Psychiatric Technicians
California Correctional Peace Officers Association
California State Sheriffs' Association
Chief Probation Officers of California

Deputy Sheriffs Association of San Diego
Los Angeles Police Protective League
Peace Officers Research Association of California
Public Risk Innovation, Solutions, and Management
Riverside County Sheriff's Office
San Jose Police Officers Association

ASSEMBLY FLOOR: 49-21, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Kiley, Lackey, Mathis, Nguyen, Patterson, Salas, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Cooper, Irwin, O'Donnell, Petrie-Norris, Ramos, Rodriguez, Villapudua

Prepared by: Stephanie Jordan / PUB. S. /
8/19/22 13:15:42

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

SENATE RULES COMMITTEE AB 2644
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2644
Author: Holden (D), et al.
Amended: 8/24/22 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-1, 6/28/22
AYES: Bradford, Kamlager, Skinner, Wiener
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 41-25, 5/26/22 - See last page for vote

SUBJECT: Custodial interrogation

SOURCE: Author

DIGEST: This bill prohibits an officer from using threats, physical harm, deception, or psychologically manipulative interrogation tactics when questioning a person 17 years of age or younger about the commission of a felony or misdemeanor.

Senate Floor Amendments of 8/24/22 move these provisions to the Welfare and Institutions Code from the Penal Code because they now only apply to juveniles.

ANALYSIS:

Existing federal law*:*

1) States that no person shall "be compelled in any criminal case to be a witness against himself." (U.S. Const. Amend. V.)

2) States that persons may not be compelled in a criminal case to be a witness against themselves. (Cal. Const., Art. I, Sec. 15.)

Existing state law:

1) Requires prior to a custodial interrogation and before the waiver of any *Miranda* rights, a youth 17 years of age or younger shall consult with legal counsel in person, by telephone, or by video conference. Prohibits waiver of the consultation. (Welf. and Inst. Code, § 625.6(a).)

2) Requires the court, in adjudicating the admissibility of statements of a youth 17 years of age or younger made during or after a custodial interrogation, to consider the effect of failure to comply with the consultation requirement, as well as any willful violation in determining the credibility of a law enforcement officer. (Welf. and Inst. Code § 625.6(b).)

3) Specifies that the consultation requirement does not apply to the admissibility of statements of a youth 17 years of age or younger if both of the following criteria are met:

   a) The officer who questioned the youth reasonably believed the information he or she sought was necessary to protect life or property from an imminent threat; and

   b) The officer's questions were limited to those questions that were reasonably necessary to obtain that information. (Welf. and Inst. Code § 625.6. (c).)

4) Exempts probation officers from complying with the consultation requirement in their normal course of duties, as specified. (Welf. and Inst. Code, § 625.6 (d).)

5) Provides that when a minor is taken into a place of confinement the minor shall be advised of the right to make at least two telephone calls, one completed to a parent or guardian, or a responsible relative, or employer and one to an attorney. (Welf. & Inst. Code § 627.)

6) Defines custodial interrogation as any interrogation in a fixed place of detention involving a law enforcement officer's questioning that is reasonably likely to elicit incriminating responses, and in which a reasonable person in the subject's position would consider himself or herself to be in custody, beginning when a person should have been advised of his or her constitutional rights, including the right to remain silent, the right to have counsel present during any interrogation, and the right to have counsel appointed if the person is unable to afford counsel, and ending when the questioning has completely finished. (Penal Code § 859.5)

7) Requires the custodial interrogation of a juvenile suspected of committing murder to be electronically recorded in its entirety. (Welf. & Inst. Code § 626.8, see also Penal Code § 859.5.)

8) States that when a minor is taken into temporary custody before a probation officer, and it is alleged that the minor has violated a law defining a crime, the probation officer must advise the minor that anything the minor says can be used against him, and shall advise the minor of their constitutional rights, including the right to remain silent and the right to counsel. (Welf. & Inst. Code, § 627.5.)

This bill:

1) Prohibits the use of threats, physical harm, deception, or psychologically manipulative tactics by law enforcement during an interrogation of a young person who is 17 years of age or younger.

2) States that these limitations do not apply to interrogations where the office reasonably believed the information sought was necessary to protect life or property from imminent harm and the questions were limited to those reasonably necessary to obtain information related to that imminent threat.

3) Defines the following terms for purposes of these provisions:

   a) "Deception" includes but is not limited to "the knowing communication of false facts about evidence, misrepresenting the accuracy of the fact, or false statements regarding leniency."

   b) "Psychologically manipulative interrogation tactics" include but are not limited to:

      i) Maximization and minimization and other interrogation practices that rely on a presumption of guilt or deceit, as specified;

      ii) Making direct or indirect promises of leniency, such as indicating the person will be released if they cooperate; and

      iii) Employing the "false" or "forced" choice strategy, where the person is encouraged to select one of two options, both incriminatory, but one is characterized as morally excusable.

4) States that these provisions do not prohibit the use of a lie detector test as long as it is voluntary and not obtained through threats, physical harm, deception, or

psychologically manipulative interrogation tactics, and the officer does not suggest that the lie detector results are admissible in court or misrepresent the lie detector results to the person.

5) Prohibits the use of threats, physical harm, deception, or psychologically manipulative tactics by law enforcement during an interrogation of a young person who is 17 years of age or younger.

6) States that these limitations do not apply to interrogations where the office reasonably believed the information sought was necessary to protect life or property from imminent harm and the questions were limited to those reasonably necessary to obtain information related to that imminent threat.

7) Provides that the limitations on interrogation in this bill do not become operative until July 1, 2024.

8) Provides that within two hours of a minor being takin into custody at a juvenile hall or any other place of confinement, the probation officer must immediately notify the public defender.

9) Provides that the "custodial interrogation" shall be defined the same as in Penal Code Section 859.5.

Background

A growing body of research indicates that adolescents are less capable of understanding their constitutional rights than their adult counterparts, and also that they are more prone to falsely confessing to a crime they did not commit. (Luna, *Juvenile False Confessions*: *Juvenile Psychology, Police Interrogation Tactics, And Prosecutorial Discretion* (2018) 18 Nev. L.J. 291, https://scholars.law.unlv.edu/nlj/vol18/iss1/10/ [as of March 31, 2021].) Research suggests that "[b]ecause adolescents are more impulsive, are easily influenced by others (especially by figures of authority), are more sensitive to rewards (especially immediate rewards), and are less able to weigh in on the long-term consequences of their actions, they become more receptive to coercion." (*Id.* at p. 297, *citing* various scientific journals.) The context of custodial interrogation is believed to exacerbate these risks.

The U.S. Supreme Court has recognized the susceptibility of youth as well. In *J.D.B. v. North Carolina* (2011) 564 U.S. 261, the Court said:

> A child's age is far "more than a chronological fact." It is a fact that "generates commonsense conclusions about behavior and perception." Such conclusions

> apply broadly to children as a class. And, they are self-evident to anyone who was a child once himself, including any police officer or judge.
>
> Time and again, this Court has drawn these commonsense conclusions for itself. We have observed that children "generally are less mature and responsible than adults"; that they "often lack the experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them"; that they "are more vulnerable or susceptible to … outside pressures" than adults; and so on. Addressing the specific context of police interrogation, we have observed that events that "would leave a man cold and unimpressed can overawe and overwhelm a lad in his early teens." Describing no one child in particular, these observations restate what "any parent knows"—indeed, what any person knows—about children generally. (*Id*. at p. 272, citations omitted.)

In light of this susceptibility, this bill explicitly prohibits the use of threats, physical harm, deception, or psychologically manipulative interrogation tactics when questioning a minor or a youth 17 years or younger about commission of a crime.

And while *J.D.B. v. North Carolina*, *supra,* involved the interrogation of a 13-year old (546 U.S. at p. 265), other Supreme Court decisions have recognized that part of the brain responsible for executive functioning is not fully developed until around the age of 25, causing the youth to not fully appreciate the seriousness or consequences of his or her actions. (See *Miller v. Alabama* (2012) 567 U.S. 460, 471-473, citing *Graham v. Florida* (2010) 560 U.S. 48, 68-71 and *Roper v. Simmons* (2005) 543 U.S. 551, 569-570; see also *People v. Caballero* (2012) 55 Cal.4th 262, 268-269.) Limiting these tactics to young people under the age of 17 is consistent with that precedent.

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

According to the Senate Appropriations Committee:

- *DOJ*: Costs in the high tens of thousands to low hundreds of thousands thereafter for additional staff resources to handle appellate litigation (General Fund).

- *Local Reimbursements*: Unknown, potentially reimbursable costs in the low hundreds of thousands for additional staff and/or resources for county probation departments to immediately notify legal counsel every time a minor has been taken into custody (Local Funds, General Fund). General Fund costs would

depend on whether the Commission on State Mandates determines that this bill imposes a reimbursable state mandate.

SUPPORT: (Verified 8/19/22)

AFSCME, AFL-CIO
California Attorneys for Criminal Justice
California Innocence Coalition: Northern California Innocence Project, California Innocence Project, Loyola Project for the Innocent
California Public Defenders Association
Democratic Party of Contra Costa County
El Dorado District Attorney
Ella Baker Center for Human Rights
Fresno Barrios Unidos
Friends Committee on Legislation of California
Hillsides
Los Angeles County District Attorney's Office
Los Angeles County Probation Officers Union, AFSCME Local 685
National Association of Social Workers, California Chapter
National Center for Lesbian Rights
Pacific Juvenile Defender Center
Smart Justice California

OPPOSITION: (Verified 8/19/22)

California Statewide Law Enforcement Association
Chief Probation Officers of California
L.A. Sheriff's Department
San Diegans Against Crime
San Diego County Chiefs' & Sheriff's Association
San Diego Deputy District Attorneys Association

ARGUMENTS IN SUPPORT: The Ella Baker Center for Human Rights supports this bill stating:

> According to the Center on Wrongful Convictions of Youth (CWCY), false confessions are one of the leading causes of wrongful convictions, accounting for roughly 25% of all convictions that were later overturned based on DNA evidence. Juries view a confession as a significant piece of direct evidence of one's guilt, yet struggle with understanding how someone might falsely implicate themselves or another in criminal conduct.

The reality is that law enforcements' use of deceptive interrogation methods, such as threats, physical harm, deception, or psychologically manipulative tactics as defined in AB 2644, create an incredibly high risk for eliciting a false confession from anyone, and particularly youth. Research indicates that a person's brain is not fully developed until the age of 25 and that deceptive interrogation methods increase the risk of a false confession even for those older than 18.

AB 2644 recognizes what social scientists, some courts and factions of law enforcement have learned, that is deceptive and manipulative interrogations tactics, that have long been employed by law enforcement, are guilt-centric, coercive, and can force someone to confess to a crime or implicate another despite being entirely innocent. AB 2644 closely follows newly enacted laws in Illinois, the first state to pass legislation that prohibits police officers from using deceptive interrogations tactics on youth, and similar law passed in Oregon.

ARGUMENTS IN OPPOSITION: The California Statewide Law Enforcement Agency opposes this bill stating:

While we understand the author's intention in creating safeguards around the questioning of persons taken into custody, this legislation goes too far by prohibiting the use of longstanding interrogation practices, which are only used when an investigator is reasonably certain of the suspect's involvement in the issue under investigation. By limiting the scope of what members of law enforcement are permitted to discuss with suspects, investigations will grind to a halt.

The courts have long established that physical abuse of the suspect, threats of harm, denial of rights, and making false guarantees of leniency are unacceptable and can render a confession inadmissible. Placing further limitations on law enforcement's means to question suspects will only interfere with timely resolutions of investigations.

ASSEMBLY FLOOR: 41-25, 5/26/22
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Nazarian, Quirk, Quirk-Silva, Reyes,

Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NOES: Bigelow, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Gallagher, Grayson, Kiley, Lackey, Mathis, Mayes, Nguyen, Patterson, Salas, Seyarto, Smith, Valladares, Voepel, Waldron

NO VOTE RECORDED: Arambula, Berman, Boerner Horvath, Cervantes, Gray, Irwin, Muratsuchi, O'Donnell, Petrie-Norris, Ramos, Rodriguez, Villapudua

Prepared by: Mary Kennedy / PUB. S. /
8/26/22 15:47:48

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

SENATE RULES COMMITTEE AB 2653
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2653
Author: Santiago (D) and Wicks (D)
Amended: 8/25/22 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 7-1, 6/21/22
AYES: Wiener, Caballero, Cortese, McGuire, Roth, Skinner, Umberg
NOES: Bates
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 6-1, 8/11/22
AYES: Portantino, Bradford, Jones, Laird, McGuire, Wieckowski
NOES: Bates

ASSEMBLY FLOOR: 55-19, 5/26/22 - See last page for vote

SUBJECT: Planning and Zoning Law: housing elements

SOURCE: Author

DIGEST: This bill authorizes the Department of Housing and Community Development (HCD) to reject the housing element portion of a planning agency's annual progress report (APR), as specified. This bill also authorizes HCD to report violations of the provisions of this bill to the Attorney General.

Senate Floor Amendments of 8/25/22 resolve chaptering conflicts with AB 1743 (McKinnor), AB 2011 (Wicks), AB 2094 (Rivas), and AB 2097 (Friedman).

ANALYSIS:

Existing law:

1) Requires every city and county to adopt a general plan that sets out planned uses for all of the area covered by the plan, and requires the general plan to include seven mandatory elements, including a housing element.

2) Requires the housing element to include a review of existing and projected housing needs, determine whether adequate sites with appropriate zoning exist to meet the housing needs of all income levels within the community, and ensure that local regulations provide opportunities for, and do not significantly restrict, the development of housing.

3) Requires that each community's fair share of housing be determined through the regional housing needs allocation (RHNA) process, which involves three main stages: (a) the Department of Finance and HCD develop regional housing needs estimates at four income levels: very low-income, low-income, moderate-income, and above moderate-income; (b) councils of government (COGs) use these estimates to allocate housing within each region (HCD is to make the determinations where a COG does not exist); and (c) cities and counties incorporate their allocations into their housing elements.

4) Establishes HCD oversight of the housing element process, including the following:

   a) Local governments must submit a draft of their housing element to HCD for review.

   b) HCD must review the draft housing element, and determine whether it substantially complies with housing element law, in addition to making other findings.

   c) Local governments must incorporate HCD feedback into their housing element.

   d) HCD must review any action or failure to act by local governments that it deems to be inconsistent with an adopted housing element. HCD must notify any local government, and at its discretion the office of the Attorney General, if it finds that the jurisdiction has violated state law.

5) Requires each city and county to submit an APR to the Governor's Office of Planning and Research (OPR) and HCD by April 1 of each year. The report is to evaluate the general plan's implementation, including how local housing needs have been met (construction of new units, changes to zoning laws, facilitating regulatory hurdles to housing development, etc.).

6) Requires HCD to notify the city or county, and authorizes HCD to notify the state Attorney General, that the locality is in violation of state housing element law or has taken an action in violation of several state housing laws.

This bill:

1) Requires each city and county to also include in their APR data on the net units of housing demolished and data approved for all projects approved to receive density bonus from the city or county.

2) Allows HCD to reject the housing element portion of an APR if it is not in substantial compliance with the requirements specified in local planning law.

3) Requires, if HCD request corrections to the housing element portion of an APR within 90 days of receipt. The local government shall make the requested corrections within 30 days after which HCD may reject the report if the report the housing element portion of an APR, HCD to provide the reasons the report is not in substantial compliance with the statutory requirements.

4) Requires HCD to provide the reasons the report is inconsistent with statutory requirements in writing if HCD rejects the housing element portion of APR.

5) Adds violations of the provisions of this bill to the list of housing law violations for which HCD is required to notify the jurisdiction and is authorized to provide notice to the state Attorney General.

6) Resolves chaptering conflicts with AB 1743 (McKinnor), AB 2011 (Wicks), AB 2094 (Rivas), and AB 2097 (Friedman).

Background

APRs are an important tool for both local governments and the state, as both parties can rely on them to track progress in implementing the housing policy in their housing element, as well as to track outcomes. They also help highlight implementation challenges that may require technical assistance or other support from HCD. Additionally, APRs are important for informing statewide housing policy. The APRs provide the data that, aggregated across the state's 539 cities and counties, convey the amount, type, location, and affordability of housing be produced in California. This bill provides HCD with the authority to reject an APR should a local government not meet the requirements in the APR.

Under existing law, HCD is required to notify a jurisdiction, and is authorized to notify the Attorney General, of specified violations of state housing law, including the Housing Accountability Act, Housing Crisis Act (HCA), no-net-loss zoning in housing element law, density bonus law, land use housing discrimination violations, violations of affirmatively furthering fair housing (AFFH) requirements, violations of SB 35 requirements (streamlined ministerial approval

for certain housing projects), violations of AB 2162 requirements (streamlining for permanent supportive housing), and violations of AB 101 requirements (streamlining for low-barrier navigation centers).

Comments

1) *Planning for Housing and Tracking Outcomes.* Existing law requires each city and county's legislative body to adopt a "general plan" for land use within its jurisdiction. Each general plan must include a "housing element" that details existing housing conditions within the jurisdiction, the need for new housing, and the strategy that the jurisdiction will use to address that need. The need for new housing is determined through the RHNA process, which involves three main stages:

   The Department of Finance and HCD develop regional housing needs estimates at four income levels: very low-income, low-income, moderate-income, and above moderate-income; Councils of Governmetns (COGs) use these estimates to allocate housing within each region (HCD makes the determinations where a COG does not exist); and

   cities and counties plan for accommodating these allocations in their housing elements.

   Local governments must adopt a new housing element every eight years (though some rural jurisdictions must do so every five). These adopted housing elements are approved by HCD and must be in "substantial compliance" with the law.

   Each year, the local government's planning agency must submit an APR to HCD and OPR that documents the jurisdiction's progress towards meeting its general plan goals, including the implementation of its housing element and progress towards meetings its RHNA target. The APR must include information about all proposed and approved development projects, a list of rezoned sites to accommodate housing for each income level, and information on density bonus applications and approvals, among other provisions.

2) *HCD enforcement authority*. Existing law requires HCD to notify the jurisdiction, and authorizes HCD to notify the Attorney General, of specified violations of state housing law. This bill adds to that list any violations of the provisions in this bill.

3) *Senate Appropriations Amendments*. Authors amendments taken in the Senate Appropriations Committee do the following: (a) add additional data points to

the APR, (b) require HCD to notify a local government of a violation of the provisions in this bill, and (c) requires HCD to notify a local government of necessary corrections to the housing element portion of the APR within 90 days, and requires the local government to provide corrections within 30 days.

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

According to the Senate Appropriations Committee, HCD estimates costs of approximately $367,000 annually for 2.0 PY of staff to perform a quantitative audit evaluating APRs, identify those with errors, note corrective actions, provide written findings, and provide technical assistance to cities and counties. There could be additional unknown one-time IT costs if HCD determines that the functionality of its housing element tracking system requires updates to incorporate APR tracking. (General Fund)

SUPPORT: (Verified 8/11/22)

California Housing Consortium
California Rural Legal Assistance Foundation
City of Santa Monica
Western Center on Law & Poverty

OPPOSITION: (Verified 8/11/22)

City of Pleasanton

ARGUMENTS IN SUPPORT: According to the author, "Providing HCD the ability to reject non-compliant APRs will improve the caliber of the quantitative and qualitative information included in APRs. This will support better local housing element implementation, help HCD pinpoint where to provide technical assistance to local governments, and ensure robust data sets that facilitate informed statewide policymaking."

ARGUMENTS IN OPPOSITION: Writing on a prior version of the bill, the City of Pleasanton is opposed over the timelines set in the bill for compliance.

ASSEMBLY FLOOR: 55-19, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-

Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Voepel, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NOES: Bigelow, Boerner Horvath, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Waldron

NO VOTE RECORDED: Berman, Mayes, O'Donnell, Villapudua

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
8/26/22 15:47:49

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

SENATE RULES COMMITTEE AB 2655
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2655
Author: Blanca Rubio (D), et al.
Amended: 4/21/22 in Assembly
Vote: 21

SENATE HEALTH COMMITTEE: 9-0, 6/8/22
AYES: Pan, Melendez, Eggman, Gonzalez, Grove, Leyva, Limón, Rubio, Wiener
NO VOTE RECORDED: Hurtado, Roth

SENATE JUDICIARY COMMITTEE: 11-0, 6/14/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 73-0, 5/25/22 (Consent) - See last page for vote

SUBJECT: Multicultural health

SOURCE: California Rural Indian Health Board

DIGEST: This bill requires the Department of Public Health (CDPH) enter into a data sharing agreement with the California Tribal Epidemiology Center (CTEC) with access to the California Reportable Disease Information Exchange (CalREDIE) and the California Immunization Registry (CAIR) systems no later than January 1, 2023. This bill prohibits the CTEC from disclosing the information in these systems.

ANALYSIS:

Existing federal law:

1) Establishes the Health Insurance Portability and Accountability Act of 1996 (HIPAA), which among various provisions, mandates industry-wide standards

for health care information on electronic billing and other processes; and, requires the protection and confidential handling of protected health information. [42 U.S.C. §300gg, 29 U.S.C. §1181, et seq., and 42 U.S.C. §1320d, et seq.]

2) Establishes tribal epidemiology centers to collect data, evaluate existing delivery systems that impact Indian health, assist tribes and tribal organizations in identifying high-priority health status objectives and needed services, make recommendations to improve the health care delivery system for Indians, provide technical assistance to tribes and tribal organizations, provide disease surveillance, and assist tribes and tribal organizations to promote public health. [25 U.S.C. § 1621m]

Existing state law:

1) Requires CDPH to establish a list of reportable diseases and conditions to be reported by local health officers (LHOs). Requires CDPH to specify the timeliness requirements related to the reporting of each disease and condition, and the mechanisms required for, and the content to be included in, reports made. Permits the list to include both communicable and non-communicable diseases. Permits the list to be modified at any time by CDPH, after consultation with the California Conference of Local Health Officers. [HSC §120130]

2) Requires, through regulation, every health care provider, knowing of or in attendance on a case or suspected case of any reportable diseases or conditions, to report to the LHO for the jurisdiction where the patient resides. Permits any individual having knowledge of a person who is suspected to be suffering from one of the diseases to make such a report to the LHO for the jurisdiction where the patient resides when there is no health care provider in attendance. Defines "health care provider" as a physician and surgeon, a veterinarian, a podiatrist, a nurse practitioner, a physician assistant, a registered nurse, a nurse midwife, a school nurse, an infection control practitioner, a medical examiner, a coroner, or a dentist. [17 CCR §2500]

3) Requires, through regulation, an administrator of each health facility, clinic, or other setting where more than one health care provider may know of a case, a suspected case or an outbreak of disease within the facility, to establish and be responsible for administrative procedures to assure that reports are made to the LHO. [17 CCR §2500(c)]

4) Requires, through regulation, each clinical laboratory director, or the laboratory director's designee, an approved public health laboratory, or a veterinary laboratory, to report findings of specified communicable diseases and conditions to the LHO of the local health jurisdiction (LHJ) where the health care provider who first submitted the specimen is located. Requires the laboratory, if the patient residence is unknown, to notify the LHO of the jurisdiction in which the health care provider is located. [17 CCR §2505]

5) Requires, through regulation, an administrator of each health facility, clinic, or other setting where more than one health care provider may know of a case, a suspected case or an outbreak of disease within the facility, to establish and be responsible for administrative procedures to assure that reports are made to the LHO. [17 CCR §2500(c)]

6) Requires, through regulation, each clinical laboratory director, or the laboratory director's designee, an approved public health laboratory, or a veterinary laboratory, to report findings of specified communicable diseases and conditions to the LHO of the LHJ where the health care provider who first submitted the specimen is located. Requires the laboratory, if the patient residence is unknown, to notify the LHO of the jurisdiction in which the health care provider is located. [17 CCR §2505]

7) Requires LHOs to immediately report to CDPH every discovered or known case or suspected case of a designated disease. Requires LHOs to make reports that CDPH requires within 24 hours after investigation. [HSC §120190]

8) Allows LHOs to, either separately or jointly with other jurisdictions and in conjunction with CDPH's Immunization Branch, operate immunization information systems containing individuals' immunization information. Further allows the information in these systems to be shared with specified entities, including among other LHOs jointly operating the system. States that individuals have the right to refuse the sharing of their information in these systems and requires that individuals be informed of this right. [HSC §120440]

9) Requires health care providers, local health departments, and CDPH to maintain the confidentiality of patient immunization information in the same manner as other medical record information with patient identification that they possess. Subjects these providers, departments, and contracting agencies to civil action and criminal penalties for the wrongful disclosure of patient immunization information. Limits the use of patient immunization information to providing immunization services to the patient, facilitating provision of

third-party payer payments for immunizations, and compiling and disseminating statistical information of immunization status of groups of patients or populations in California, without patient identifying information. [HSC §120440]

10) Recognizes tribal epidemiology centers as public health authorities pursuant to federal law. [HSC § 128766]

This bill:

1) Requires CDPH to enter into a data sharing agreement with the CTEC for access to and use of the CalREDIE and the CAIR systems no later than January 1, 2023.

2) Prohibits CTEC from disclosing any information it receives pursuant to this section to any person or entity, except in response to a court order, search warrant, or subpoena, or as otherwise required or permitted by the federal medical privacy regulations under HIPAA.

Comments

1) *Author's statement.* According to the author, this bill advances health equity by allowing the CTEC to access CalREDIE. This bill allows the state's only Tribal epidemiology center to access up to the minute public health data through the CalREDIE system in order to inform and alert Tribal communities about important public health issues. During the COVID-19 pandemic, CTEC was forced to continuously submit lengthy requests for "snapshot" data from the CalREDIE system, similar to a research university. As we learned during the pandemic, in order for an epidemiology program to be effective at disease surveillance, data must be as close to "real-time" as possible. Tribal communities were hit unnecessarily hard during the pandemic. CTEC is recognized in state and federal law as a public health authority and should be treated as such by CDPH. This bill makes progress to ensure Tribal communities have the tools needed to protect themselves from future disease outbreaks.

2) *CTEC.* CTEC is housed within the California Rural Indian Health Board, Inc. (CRIHB), and was established in 2005 to assist in collecting and interpreting health information for American Indian Alaska Natives (AIAN) in California. CTEC receives core funding from the Indian Health Service (IHS) and operates on other grants and contracts to provide a full complement of staff. CTEC is one of 12 IHS Division of Epidemiology and Disease Prevention

(DEDP)-funded Tribal Epidemiology Centers (TECs) that provide epidemiologic support to each IHS region and often partner with local IHS area offices to provide these services. TECs were established as part of the federal Indian Health Care Improvement Act (IHCIA) as legislatively mandated and legally required to perform tribal public health activities, including data surveillance and analysis and supporting tribes in their own public health activities. In 2010, when Congress enacted the Patient Protection and Affordable Care Act, it also permanently reauthorized the IHCIA. IHCIA's 2010 reauthorization included a provision designating TECs as public health authorities under HIPAA. As such, TECs have the legal authority to collect, receive, and disseminate public health data as necessary to respond to public health threats, and have the same public health authority designation as the CDC, and state and local health departments.

CTEC's mission is to improve American Indian health in California to the highest level by engaging American Indian communities in collecting and interpreting health information to establish health priorities, monitor health status, and develop effective public health services that respect cultural values and traditions of the communities. CTEC has data sharing agreements with 23 tribal health programs that serve 84 tribes throughout California. CTEC services are available to all tribes in California. CTEC has seven core objectives:

a) Maintain communication and obtain input from the CTEC Advisory Council, CRIHB Board of Directors, California Area Office IHS, CDPH, and AIAN populations;
b) Obtain access to data and assist IHPs in public health activities that are needed to address the AIAN public health priorities;
c) Produce community health profiles for AIAN populations that address two public health priorities;
d) Conduct a Tribal Behavioral Risk Factor Surveillance Survey;
e) Participate in data, research, epidemiology and public health forums and committees;
f) Develop and maintain outbreak response capacity, which is coordinated with the response efforts by local health departments, CDPH and IHS; and,
g) Align CTEC activities to reflect and support IHS priorities.

3) *CalREDIE.* CalREDIE is CDPH's electronic disease reporting and surveillance system, and allows for 24/7/365 reporting and receipt of notifiable conditions. According to CDPH, LHJs and CDPH have access to disease and lab reports in near real-time for disease surveillance, public health investigation, and case

management activities. Coordinated by CDPH's California Disease Emergency Response Program, CalREDIE is used by all 61 of California's LHJs in some capacity, and 58 LHJs use the system for surveillance of all notifiable communicable diseases. Additionally, over 3200 facilities (including clinical and commercial labs, skilled nursing facilities, and schools) electronically submit reportable lab results through CalREDIE Electronic Laboratory Reporting. According to CDPH, although Los Angeles and San Diego Counties do not use CalREDIE for reporting their COVID-19 cases, CDPH captures this data through other mechanisms. In August 2020, the Newsom Administration announced that it would establish a separate data reporting system for COVID-19 cases following issues with CalREDIE that resulted in a backlog and delay in reporting. CDPH entered into a six-month, $15.3 million agreement with OptumInsight, Inc. (using federal funding) to handle the surge in reportable disease cases resulting from the pandemic. The Optuminsight contract was renewed for an additional 12 months, and they continue processing all electronic lab results sent to CalREDIE. CDPH is in the midst of a competitive procurement for CCRS (the system that Optuminsight provides), as the current contract expires in June 2022. CDPH states that they intend to maintain a CCRS system to ensure that CDPH maintains a stable, scalable, modern, sustainable infrastructure for all communicable disease reporting needs ranging from routine to emergency to pandemic. While CalREDIE may have some capacity to identify new viral threats, it remains largely reactive and voluntary, communicating with only a subset of statewide viral surveillance facilities. There is currently no proactive state public health entity communicating automatically and in real-time with all the public, private, and academic labs that conduct some type of viral surveillance.

4) *Immunization Registries.* All 50 states, five cities, the District of Columbia, and eight territories receive immunization program funding through the federal Public Health Services Act *(42 United States Code Section 201 et seq.)*. The immunization information systems are confidential computerized databases that contains all immunization records for individuals within a particular region submitted by participating providers. These systems – commonly known as immunization registries – have varying functionality and are in different stages of maturity. California's immunization registry (CAIR) has recently been updated to consolidate patient records and enable statewide access to immunization records; this new system is called "CAIR2." As originally designed, CAIR only enabled authorized users to access immunization data within their defined region but offered, upon request, authorized users the ability to look up information in other regional registries.

CAIR2 is intended to accomplish certain goals, including consolidating patient data and enabling statewide searches for and retrieval of records.

Use of CAIR is voluntary. Participating health care providers can enter immunization records, so long as the individual or the individual's parent, where applicable, has been notified about the registry and the right to "lock" information in CAIR to ensure that no user, other than his or her health care provider, may access the immunization information. Logging into the registry requires a user identification and password, and users must sign a confidentiality agreement. Individuals authorized to use CAIR include health care providers and plans; schools; county welfare departments; foster care agencies; family child care homes; and child care facilities.

5) *HIPAA Privacy Rule.* The regulations promulgated under HIPAA, known as the Privacy Rule, established requirements for covered entities to protect the privacy of individuals' health information. The Privacy Rule specifies permitted uses and disclosures that allow covered entities to share protected health information. Among the permitted uses that do not require individual authorization for disclosure are public health activities. Covered entities may disclose protected health information, even where there are small numbers, to public health authorities. Public health authorities, including TECs, may collect such information for the purposes of preventing or controlling disease, injury, or disability. The Privacy Rule unequivocally recognizes the importance of public health activities and ensuring that designated public health authorities have access to the data necessary to effectively promote public health. Even HIPAA-covered health departments may share identifiable protected health information with another public health authority for public health purposes, such as for disease reporting, birth and death reporting, public health surveillance, public health investigations and interventions.

6) *Policy comment*. CDPH is still uncertain whether existing privacy laws permit CTEC access to CalREDIE, because the current CalREDIE system cannot limit CTEC access to data for tribal members. CDPH has expressed concern of liability under the California Information Practices Act in particular. If privacy laws prohibit CTEC access to statewide data, then CDPH believes it will not be able to share access to CalREDIE. However, CDPH is currently working on a successor to the CalREDIE system anticipated to go live in early 2026 that will have the flexibility needed to limit data in this manner. There is no such barrier to the CAIR system.

Related/Prior Legislation

AB 1233 (Chesbro, Chapter 306, Statutes of 2013) authorized a tribe, a tribal organization, or a subgroup of such to access the California Healthcare Eligibility, Enrollment, and Retention System (CalHEERS) to facilitate Medi-Cal applications.

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

SUPPORT: (Verified 6/28/22)

California Rural Indian Health Board (source)

OPPOSITION: (Verified 6/28/22)

None received

ARGUMENTS IN SUPPORT: The sponsor of this bill, California Rural Indian Health Board, a network of 19 Tribal Health Programs controlled and sanctioned by 59 federally recognized Tribes, writes that historically, Tribal communities have been devastated by communicable diseases. This issue persists today as it relates to COVID-19, HIV, tuberculosis, and hepatitis. This bill would grant CTEC access to the CalREDIE and CAIR to relay real-time updates to Tribal communities regarding threats from communicable diseases. For an epidemiology program to be successful in disease surveillance, it needs as close to real-time data as possible. This bill will improve health equity in Tribal communities and help protect against public health threats.

ASSEMBLY FLOOR: 73-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Berman, Bloom, Irwin, O'Donnell, Blanca Rubio

Prepared by: Jen Flory / HEALTH / (916) 651-4111
6/29/22 18:44:46

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

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THIRD READING

Bill No: AB 2667
Author: Friedman (D)
Amended: 8/24/22 in Senate
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 10-2, 6/27/22
AYES: Hueso, Becker, Bradford, Dodd, Eggman, Gonzalez, Hertzberg, McGuire, Min, Rubio
NOES: Dahle, Grove
NO VOTE RECORDED: Borgeas, Stern

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 58-1, 5/23/22 - See last page for vote

SUBJECT: Distributed energy resources: incentives

SOURCE: Author

DIGEST: This bill establishes a program to provide incentives for commercially available distributed energy resources (DERs), specifically behind-the-meter energy storage systems or self-generation systems paired with energy storage systems.

Senate Floor Amendments of 8/24/22 clarify the legislative intent that owners and operators of publicly available electric vehicle charging facilities are exempt from the definition of "public utility," and includes a technical amendment.

ANALYSIS:

Existing law:

1) Requires the California Public Utilities Commission (CPUC) to require the administration, until January 1, 2026, of a self-generation incentive program to

increase the development of distributed generation resources and energy storage technologies. Requires the CPUC, in administering the program, to provide an additional incentive of 20 percent from existing program funds for the installation of eligible distributed generation resources manufactured in California. (Public Utilities Code §379.6)

2) Establishes the State Energy Resources Conservation and Development Commission (also known as the California Energy Commission (CEC)) with various responsibilities with respect to developing and implementing the state's energy policies. (Public Resources Codes §§25200-25233.5)

3) Imposes various requirements on public works projects, including a requirement that, at minimum, all workers employed on a public works project be paid the general prevailing rate of per diem wages for work of a similar character in the locality in which a public work is performed. Defines "public work" to include, among other things, construction, alteration, demolition, or installation or repair work done under contract and paid for, in whole or in part, out of public funds. (Labor Code §1720)

This bill:

1) Requires the CEC to use funds appropriated by the Legislature to provide incentives to eligible customers who install behind-the-meter energy storage systems, or self-generation systems paired with energy storage systems, to support statewide customer adoption of clean DERs, as specified.

2) Requires the CEC to establish a system to equitably award incentives to support adoption of commercially available distributed energy resources by eligible customers.

3) Requires the CEC to set incentive levels and require the resource to do one or more of the following:
   a) Support electrical grid reliability through managed operation of the DER.
   b) Reduce the electrical grid's net peak load by shifting onsite energy use to off-peak time periods or reduce demand from the electrical grid through load customer participation in a demand reduction program provided by the customer's load-serving entity.
   c) Support resiliency during periods of power system disruptions via self-islanding with clean onsite generation or backup power technology, with an emphasis on critical facilities.

4) Requires the CEC to prioritize resources that do both of the following:

a) Reduce environmental pollution in disadvantaged communities or provide clean resiliency benefits to vulnerable communities.
b) Facilitate all types of clean vehicle charging with an emphasis on medium- and heavy-duty vehicles co-located at ports, warehouses, and in transit corridors.

5) Authorizes the CEC to authorize incentives for different technology types to be combined within this program and with other state-mandated programs, as provided, and would require the CEC to adopt equipment inspection, operation, and verification procedures, and applicable performance criteria for eligible resources.

6) Requires that any installations, except residential generation of less than 15 kilowatts (kW) or greater, paid in part or in whole with funds provided from this bill to be considered public works.

7) Makes several findings and declarations related to Public Utilities Code §218, known as "the over-the-fence rule."

Background

Self-Generation Incentive Program (SGIP). SGIP was established by statute, AB 970 (Ducheny, Chapter 329, Statutes of 2000), and provides incentives to support existing, new, and emerging DER. SGIP provides rebates for qualifying DER systems installed on the customer's side of the utility meter and sized no larger than what is needed to meet on-site energy needs. Qualifying technologies include wind turbines, waste heat to power technologies, pressure reduction turbines, internal combustion engines, microturbines, gas turbines, fuel cells, and advanced energy storage systems. SGIP has evolved since 2001, with eligibility requirements, program administration, and incentive levels all changing over time in response to California's evolving energy landscape. While SGIP has provided incentives for a variety of DERs, more recently, the program has largely focused on energy storage systems. The program has several goals:

- Environment – reduce GHGs, integrate renewables and reduce criteria air pollutants;
- Grid support – reduce or shift peak demand, reduce grid costs, provide ancillary services;
- Market transformation – support technologies that have the potential to thrive in future years without rebates; and
- Maximize ratepayer value and ensure equitable distribution of costs and benefits.

SGIP funding. Existing law authorizes the CPUC to direct electric investor-owned utilities (IOUs) to collect $166 million annually from ratepayers through 2024 to fund SGIP and requires the CPUC to administer the program until January 1, 2026. As a result, the program is only available to customers located in the service territories of the state's three largest electric IOUs.

SGIP projects. SGIP allocates 85 percent of the funds to energy storage technologies. Based on the 2019 evaluation (published in August 2021), by the end of 2019, the SGIP had provided incentives to 8,875 energy storage systems representing almost 187 megawatts (MW) of rebated capacity. Most energy storage systems rebated by the SGIP program are installed in residential settings (8,061 of 8,875 or slightly more than 90 percent), followed by a variety of nonresidential facilities, including schools and industrial facilities.

CPUC establishes "Equity Budget." In 2018, the CPUC established an "Equity Budget" for SGIP to ensure that a portion of the SGIP budget will be reserved for projects that are located in disadvantaged and low-income communities and for customers that meet specific eligibility requirements. The objectives of the investments are to support economic development opportunities to disadvantaged communities, reduce or avoid the need to operate conventional gas facilities in disadvantaged communities, and ensure that low-income customers have access to energy storage resources.

Governor's 2022 Budget proposals include funding for solar and energy storage DERs. The governor's proposed budget for 2022-23 includes proposals to provide incentives for DER, including nearly $1 billion for solar plus storage incentives via SGIP and funding via the Strategic Electric Reliability Reserve. As of the writing of this analysis, the Legislature had adopted budget action to approve funding ($21 billion) for energy related programs and projects, including those for solar and storage incentives, but had deferred details to future trailer bills. The governor's proposal for solar and storage projects proposes to target 70 percent of the $970 million for residential low-income, Tribal, and disadvantaged communities. The remaining 30 percent of funds would be available for general market incentives for battery storage system deployment. The proposal provides that deployment of these DERs is intended to help improve electric service reliability and resiliency for low-income residential customers who may experience power outages caused by wildfires or others events, contribute to grid reliability, reduce electric sector greenhouse gas (GHG) emissions, create new clean energy jobs, reduce low-income residential customers' electric bills, and create new avenues for Tribes and underrepresented communities to access and benefit from clean energy resources.

The proposal notes that SGIP funding for communities experiencing wildfire threats and proactive power shutoffs is fully subscribed with wait list status for qualifying customers seeking to assess the incentive payments. The budget proposal is intended to address the demand for incentives and capture the benefits to the electric grid. As of the writing of this analysis, the specific proposal to have the CPUC administer funding for solar plus storage had not been adopted and was still subject to budget negotiations.

Comments

Statewide incentive program for DERs. This bill proposes to establish an incentive program for DERs administered by the CEC. The proposed program is similar to the SGIP program in providing incentives for DERs. However, whereas, the SGIP program is funded from distribution rates collected from customers within the state's three large electric IOUs, the proposed program in this bill would be funded from the state budget. As such, this incentive program would be available to residents and businesses across the state, regardless of electric utility provider (though rural electric cooperatives are not explicitly mentioned, they are generally considered electrical corporations since they are privately owned). This program would also require the CEC to prioritize resources that both reduce environmental pollution in disadvantaged communities or provide clean resiliency benefits to vulnerable communities, and facilitate all types of clean vehicle charging with an emphasis on medium- and heavy-duty vehicles collocated at ports, warehouses, and transit corridors.

Who benefits? This bill provides general direction to the CEC to equitably award incentives with consideration for various populations and includes industrial, commercial, and residential sectors. These populations include disadvantaged communities, vulnerable communities, and the access and functional needs population. The governor's budget proposal is targeted to residential customers, specifically targeting 70 percent of funding to low-income residents (without a definition) and 30 percent to any residential customer for new battery storage system installations.

Public works projects. Public works projects are, generally, those funded in part by public dollars. All workers employed on public works projects must be paid the prevailing wage determined by the Director of the Department of Industrial Relations (DIR), according to the type of work and location of the project. In California, the prevailing wage rate is an hourly rate paid on public works projects that is often set in the terms of a collective bargaining agreement. Prevailing wage creates a level playing field by requiring an across-the-board rate for all bidders on

publically subsidized projects. This bill explicitly requires the incentives for DERs over 15 kW are public works projects that must provide prevailing wages.

Public Utilities Code § 218. The findings and declarations of this bill include several statements intended to argue the merits and history of Public Utilities Code (PUC) §218, known as the "over-the-fence-rule." PUC §218 requires any entity who wishes to sell energy to more than two contiguous parcels or across the street to become a regulated electrical corporation, subject to the full regulatory authority of the CPUC, with a few exceptions. The application of PUC §218 is an issue actively debated within the CPUC's Microgrid and Resiliency proceeding (R. 19-09-009). A couple of the parties to the proceeding argued unsuccessfully to relax the limitations imposed by PUC §218 in order to allow a microgrid provider/owner/operator to serve multiple customers or properties, beyond those detailed in the statute. These parties referenced a 1921 court case decision as part of their argument to authorize the relaxation. However, the CPUC very clearly rejected those arguments in D. 21-01-018 of the proceeding, noting the statute can only be changed through legislative action. This bill proposes no changes to PUC §218, as such the statements in the findings and declarations raise concerns about their appropriateness within this bill and are the main concern of most of the entities opposed to this bill.

Related/Prior Legislation

AB 2143 (Carrillo, 2022) applies public works designation and requires prevailing wages are paid for renewable energy installations with a generating capacity of more than 15 kW that receive service pursuant to an electric utility's net energy metering (NEM) tariff. The bill is pending on the Senate Floor.

AB 1144 (Friedman, Chapter 394, Statutes of 2019) required the CPUC to allocate at least 10 percent ($16.6 million) of the 2020 funds from SGIP for the installation of energy storage and other DERs at facilities that provide critical infrastructure to communities in High Fire Threat Districts to support community resiliency.

SB 700 (Wiener, Chapter 839, Statutes of 2018) extended the sunset date for SGIP by five years, requires the CPUC to adopt requirements for storage systems to ensure that they reduce GHG emissions, and prohibits generation technologies using non-renewable fuels from obtaining SGIP incentives as of January 1, 2020.

AB 1637 (Low, Chapter 658, Statutes of 2016) doubled the annual funding authorization for SGIP and revised and extended the NEM program for fuel cells by five years.

AB 1478 (Committee on Budget, Chapter 664, Statutes of 2014) extended the sunset to collect SGIP funds through 2019 and extended the program's sunset to 2021.

SB 861 (Committee on Budget and Fiscal Review, Chapter 35, Statutes of 2014) established SGIP eligibility restrictions for distributed generation resources and required the CPUC to establish a capacity factor for DER technologies.

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

According to the Senate Appropriations Committee:

- Unknown one-time and ongoing costs, likely in the millions of dollars (General Fund or special fund) for the California Energy Commission (CEC) to administer incentives for customers who install behind-the-meter energy storage systems or self-generation systems paired with energy storage systems.
- Unknown but likely minor costs for the California Public Utilities Commission and California Air Resources Board to consult with the CEC.
- Unknown but likely significant cost pressure (various funds) to provide funding for the incentives provided for in this bill.

SUPPORT: (Verified 8/26/22)

Burbank Water and Power
California State Association of Electrical Workers
ChargePoint
Coalition of California Utility Employees
Environmental Defense Fund
NRG Energy

OPPOSITION: (Verified 8/25/22)

California Alliance for Community Energy
California Solar & Storage Association
Capstone Green Energy
Clean Coalition
East Bay Community Energy
Microgrid Resources Coalition
The Climate Center
ZNE Alliance

ARGUMENTS IN SUPPORT: According to the author, "As California faces climate-triggered extreme weather events, natural disasters, reliability planning challenges, energy market instabilities due to global geopolitical unrest, the state should expand deployment of clean distributed energy resources (DER) as a critical tool to support statewide and economy-wide decarbonization, resiliency, and equity objectives. AB 2667 would create a new incentive program at the CEC to support innovative new approaches to DER adoption based on DER functional attributes in a more technology neutral manner to support the collective needs of the grid."

ARGUMENTS IN OPPOSITION: The entities in opposition to this bill raise concerns regarding: (1) the findings and declarations concerning PUC §218, and (2) defining all DER projects over 15 kW as public works. The Microgrid Resources Coalition, which includes many of the entities opposed to this bill states, "the coalition has serious concerns with this bill and its implications for microgrids and DER deployment within communities across California."

ASSEMBLY FLOOR: 58-1, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Megan Dahle
NO VOTE RECORDED: Berman, Bigelow, Mia Bonta, Chen, Choi, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Mayes, Nguyen, O'Donnell, Patterson, Blanca Rubio, Seyarto, Smith

Prepared by: Nidia Bautista / E., U. & C. / (916) 651-4107
8/26/22 15:47:49

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

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THIRD READING

Bill No: AB 2668
Author: Grayson (D)
Amended: 8/25/22 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 9-0, 6/13/22
AYES: Wiener, Bates, Caballero, Cortese, McGuire, Ochoa Bogh, Skinner, Umberg, Wieckowski

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/29/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

ASSEMBLY FLOOR: 68-0, 5/16/22 - See last page for vote

SUBJECT: Planning and zoning

SOURCE: Bay Area Council
SPUR

DIGEST: This bill adds parameters for determining a project's compliance with the streamlined, ministerial process created by SB 35 (Wiener, Chapter 366, Statutes of 2017).

Senate Floor Amendments of 8/25/22 authorize a project to be located on a hazardous waste site if a local government has otherwise determined the site to be suitable for development or the site is an underground storage take site and has received a specified closure letter and resolve chaptering conflicts with SB 6 (Caballero).

Senate Floor Amendments of 8/18/22 provide that amendments related to the calculation of density bonus units in the bill do not constitute a change in law but are declaratory of existing law, and resolve chaptering conflicts with SB 6 (Caballero).

Senate Floor Amendments of 8/10/22 add "charter city" to the definition of "city" for purposes conducting an impact fee study under the Mitigation Fee Act.

ANALYSIS:

Existing law:

Under SB 35 (Wiener, Chapter 366, Statutes of 2017)

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.

Under the Mitigation Fee Act

4) Requires that, prior to levying a new connection fee or capacity charge, a local agency must evaluate the amount of the connection fee or capacity charge.

5) Specifies that the evaluation must include evidence to support that the fee or charge does not exceed the estimated reasonable cost of providing service as required by law.

This bill:

1) Clarifies that an SB 35 project is not subject to a conditional use permit or any other non-legislative discretionary approval.

2) Provides that the inclusionary requirements apply to the base project, before calculating any density bonus units.

3) Authorizes an SB 35 project to be located on a hazardous waste site if a local government has otherwise determined the site to be suitable for development or the site is an underground storage take site and has received a specified closure letter.

4) Provides that a local government shall not determine that a development seeking to use SB 35 or modify an SB 35-approved project is in conflict with its objective planning standards based on the absence of application materials, provided the application contains substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective planning standards.

5) Updates cross-references to the California Public Records Act.

6) Requires "charter cities" to evaluate and show specified evidence when imposing or increasing connection fees and capacity charges, and excludes school districts from certain nexus study requirements.

7) Clarifies that affordability requirements apply before the calculation of density bonus units and provide that these amendments do not constitute a change in law but are declaratory of existing law.

8) Resolves chaptering conflicts with SB 6 (Caballero).

Background

SB 35 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, as defined. To access the streamlined process, a developer must demonstrate that the development meets a number of planning standards including that the development includes a percentage of affordable housing units, meets specified labor standards, is not on an environmentally sensitive site, and would not result in the demolition of housing that has been rented out in the last ten years. Localities that find a proposal is in conflict with one of the SB 35 planning standards must provide written

documentation to the developer within a specified period of time. If the locality does not meet those deadlines, the development is deemed to satisfy the requirements for streamlined approval and must be approved by right.

Comments

1) *Modifications and objective standards.* Prior to submitting an application as described above, a developer must first submit to the local government a notice of intent to submit an application. 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 clarifies that a local government cannot determine that a development, or its subsequent modification, is in conflict with the local government's objective planning standards based on the absence of application materials, if the application contains substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective planning standards.

2) *SB 35 site exception to an exemption*. SB 35 specifically prohibits the streamlined approval process from applying to specific environmentally sensitive sites, such as wetlands, prime farmland, and sites with protected habitats. Additionally, it exempts hazardous waste sites designated by the state, unless the state has cleared the site for residential use. According to the sponsors, this bill provides clarity around underground storage tanks that have leaked. The State Water Board undertook a comprehensive evaluation of tank closure policy and criteria and concluded that petroleum hydrocarbons - unlike other chemicals - present low risks because petroleum hydrocarbons can naturally degrade quickly, depending on soil conditions. For that reason, this

bill limits the exemption to underground storage tanks that leaked petroleum hydrocarbons.

3) *Mitigation Fee Act Amendments.* Concerned that mitigation fees may be increasing the cost of housing, in 2017 the Legislature enacted AB 879 (Grayson, Chapter 374, Statutes of 2017), which required the Department of Housing and Community Development (HCD) to complete a study to evaluate the reasonableness of local fees charged to new developments. On August 7, 2019, HCD released the study, performed by the Terner Center for Housing Innovation (Terner Center). The study's findings concerned three categories: fee transparency; fee structure; and fee design. Among other conclusions, the study argued that fees can be a barrier to development and raise prices of both new and existing homes. However, the study also noted that local governments face substantial fiscal constraints and thus have turned to fees as a source of revenue to fund public services for new developments. The study recommended requiring local governments to post fees and nexus studies online, as well as annual reports on fee collections, and requiring jurisdictions to provide fee estimates. To address transparency concerns, AB 1483 (Grayson, Chapter 662, Statutes of 2019) required cities and counties to post specified housing-related information on their web sites and required HCD to establish a workgroup, as specified, to develop a strategy for state housing data.

   In November 2020, the Terner Center released a report focused on the preparation of nexus studies. The study found that in many cases, nexus studies do not clearly identify the current level of service and do not always use methodologies that tie fees closely to direct impacts of new development. Finally, the study noted that nexus studies and the fee setting process more broadly do not require a review of whether the fee would have negative financial consequences for housing development.

   Based on the information gathered at recent informational hearings and these studies, over the past couple years, legislative staff met with multiple stakeholder groups to assess how to improve the impact fee process. Last year, these efforts culminated in the enactment of AB 602 (Grayson, Chapter 347, Statutes of 2021), which required a city, county, or special district to conduct a nexus study prior to the adoption of an impact fee. AB 2536 (Grayson, Chapter 128, Statutes of 2022) amended the law to require the preparation of nexus studies to follow certain standards and practices. This bill clarifies that "charter cities" are also subject to the requirements in AB 2536 (Grayson).

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

SUPPORT: (Verified 8/24/22)

Bay Area Council (co-source)
SPUR (co-source)
California Apartment Association
California Association of Realtors
California Hispanic Chamber of Commerce
California Rental Housing Association
California YIMBY
CivicWell
Greenbelt Alliance
Housing Action Coalition
Midpen Housing Corporation
Sand Hill Property Company
Southern California Rental Housing Association
SV@Home Action Fund

OPPOSITION: (Verified 8/24/22)

City of Thousand Oaks

ARGUMENTS IN SUPPORT: According to the author, "The legislature has made enormous efforts to dramatically increase our housing supply. However, ambiguities in the law have been exploited by anti-growth community groups to delay and derail desperately needed housing projects. To help close these emergent loopholes, AB 2668 will clarify that a local government shall not determine that a development is in conflict with the objective planning standards on the basis that application materials are not included, if the application contains enough information for a reasonable person to conclude that the development is consistent with the objective standards. This small fix will help ensure that badly-needed housing projects are streamlined as intended under current law."

ARGUMENTS IN OPPOSITION: The City of Thousand Oaks is opposed because "cities should have the ability to determine if the application meets their rules and requirements for ministerial approval."

ASSEMBLY FLOOR: 68-0, 5/16/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney,

Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Mathis, Mayes, McCarty, Medina, Mullin, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Bennett, Boerner Horvath, Cunningham, Low, Maienschein, Muratsuchi, Nazarian, Quirk-Silva, Blanca Rubio, Ting

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
8/26/22 15:47:50

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

SENATE RULES COMMITTEE AB 2673
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2673
Author: Irwin (D), et al.
Amended: 8/22/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 9-0, 6/15/22
AYES: Pan, Melendez, Eggman, Gonzalez, Grove, Hurtado, Leyva, Limón, Wiener
NO VOTE RECORDED: Roth, Rubio

SENATE JUDICIARY COMMITTEE: 10-0, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, Jones, McGuire, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 72-0, 5/23/22 - See last page for vote

SUBJECT: Hospice agency licensure: moratorium on new licenses

SOURCE: Author

DIGEST: This bill establishes a moratorium on transferring a hospice agency license during the first five years of licensure, requires a new applicant for licensure to demonstrate unmet need in the region served, requires the California Department of Public Health (CDPH) to conduct surveys of accredited hospices, requires CDPH to adopt emergency regulations to adopt recommendations of the California State Auditor, as specified, extends the moratorium on new hospice licenses until the earlier of two years after the state audit, or the date the emergency regulations are adopted, and updates other hospice agency oversight requirements.

Senate Floor Amendments of 8/22/22 (1) clarify that the bill applies to hospice agencies; (2) indicate that an application may include more than one form; (3) prohibit a license from being transferred; (4) prohibit CDPH from approving a change of ownership within five years of the date a license was initially issued, and clarify only the entity issued the license may use the license during the five year period; (5) permit CDPH to make an exception for extenuating circumstances if the hospice agency demonstrates and provides evidence of the need for continuity of care, or, there is both a financial hardship and an unmet need in the geographic area; (6) require a hospice agency to have an administrator, administrator designee, director of patient care services, director of patient care services designee, and medical director or contracted medical director, and submit to CDPH specified information for each individual on an initial application; (7) require an agency to notify CDPH of any change in any of the those positions within 10 business days of the change; (8) require CDPH to verify the status of professional licensure for hospice agency management personnel, and permit CDPH to also verify other information, as specified; (9) clarify that new applicants must demonstrate and provide evidence of unmet need in the geographic area of service, unless the application is a change of ownership that meets specified conditions; (10) reduce the required CDPH surveys related to licensure to 5% of initial licensees that are approved by accrediting organizations during the previous calendar year, instead of 5% of all accredited hospices annually; (11) clarify that CDPH will make an onsite investigation within 10 days after receiving a complaint, as specified; (12) delete a requirement that CDPH establish requirements for office space, initial inspections, follow up, that the visits are unannounced, and specific requirements such as visiting patients and confirming terminal illness of patients; and, (13) add reasons CDPH may deny an application such as prior termination from government programs such as Medicare and Medi-Cal, or license suspension, a pattern and practice of violating state or federal standards during the last three years of ownership or management, presence on list of excluded individuals/entities published by the federal Office of Inspector General, and failure by management personnel to cooperation with CDPH when conducting an inspection or investigation.

ANALYSIS:

Existing law:

1) Establishes the Hospice Licensure Act of 1990 (Act) which provides CDPH with the authority to license and regulate hospice agencies. [HSC §1745, et seq.]

2) Prohibits a person, political subdivision of the state, or other governmental agency from establishing, conducting, maintaining, or representing itself as a hospice unless a license has been issued, except as specified. Permits multiple locations without a need to obtain a separate license, but requires the locations to be listed on the license of the parent agency and each to pay a licensing fee in the amount prescribed. Requires any person, political subdivision of the state, or other governmental agency desiring a hospice license to file with CDPH a verified application. Requires any hospice that is not required to obtain a license to disclose in all advertisements and information provided to the public all specified information.[HSC §1748]

3) Requires an applicant for hospice licensure to:
   a) Be of good moral character. Requires if the applicant is a franchise, franchisee, firm, association, organization, partnership, business trust, corporation, company, political subdivision of the state, or governmental agency, the person in charge of the hospice for which the application for a license is made to be of good moral character;
   b) Demonstrate ability to comply with licensure requirements and any rules or regulations; and,
   c) File a completed application with CDPH. [HSC §1749]

4) Prohibits CDPH from issuing a new license to operate a hospice, notwithstanding any other law and except as provided in 5) below, on and after January 1, 2022, and until 365 days from the date that the California State Auditor publishes a report on hospice licensure. [HSC §1751.70]

5) Permits CDPH to grant an exception to the moratorium upon making a written finding that an applicant for a new license, or, with a license application pending on January 1, 2022, has shown a demonstrable need for hospice services in the area where the applicant proposes to operate based on the concentration of all existing hospice services in that area, and requires CDPH to issue a new license during the moratorium pursuant to the law, as specified. [HSC §1751.75]

This bill:

1) Prohibits a hospice agency license from being transferred. Prohibits CDPH from approving a change of ownership within five years of the date a license was initially issued, and clarify only the entity issued the license may use the license during the five year period.

2) Permits CDPH to make an exception to 1) above for extenuating circumstances if the hospice agency demonstrates and provides evidence of the need for continuity of care, or, there is both a financial hardship and an unmet need in the geographic area

3) Requires a hospice agency to have an administrator, administrator designee, director of patient care services, director of patient care services designee, and medical director or contracted medical director, and submit to CDPH specified information for each individual on an initial application;

4) Requires an agency to notify CDPH of any change in any of the positions described in 3) above within 10 business days of the change;

5) Requires CDPH to verify the status of professional licensure for hospice agency management personnel, and permit CDPH to also verify other information, as specified;

6) Clarifies that new applicants must demonstrate and provide evidence of unmet need in the geographic area of service, unless the application is a change of ownership that meets specified conditions;

7) Requires CDPH to survey 5% of initial licenses that are accredited hospice agencies that are approved during the previous calendar, and permits CDPH to conduct a survey of an accredited hospices not surveyed as part of the 5% to ensure the accreditation and licensing requirements are met.

8) Requires, by January 1, 2024, CDPH to adopt emergency regulations to implement the recommendations in California State Auditor Report 2021-123 (state audit) on the California Hospice Licensure and Oversight (March 29, 2022), and maintain the general moratorium on new hospice licenses until the regulations are adopted, but in no event later than March 29, 2024. Specifies requirements for the emergency regulations.

9) Exempts hospice facilities licensed under health facility law from the moratorium.

10) Permits any person to request an investigation of an accredited hospice agency making a complaint (orally or in writing) to CDPH. Requires the substance of the complaint to be provided to the licensee no earlier than at the time of the inspection. Unless the complainant specifically requests otherwise, neither the substance of the complaint provided to the licensee nor any copy of the complaint or any record published, released, or otherwise made available to the licensee shall disclose the name of any person mentioned in the complaint

except the name of any duly authorized officer, employee, or agent of CDPH conducting the investigation or inspection. Requires CDPH to make an onsite investigation within 10 business days after receiving a complaint, as specified

11) Adds to the authority CDPH has to deny any application for licensure, or suspend or revoke any license the following:
    a) Improperly certifying a patient as eligible for hospice care;
    b) Failure by hospice management personnel to be present for an inspection or complaint investigation;
    c) Failure by a hospice agency to report a change in owner, hospice management personnel, or location;
    d) Prior termination from government programs such as Medicare and Medi-Cal, or license suspension,
    e) A pattern and practice of violating state or federal standards during the last three years of ownership or management, presence on list of excluded individuals/entities published by the federal Office of Inspector General; and,
    f) Failure by management personnel to cooperation with CDPH when conducting an inspection or investigation.

Comments

According to the author, hospice care is intended to make terminally ill patients as physically and emotionally comfortable as possible, and to support their families and other caregivers throughout the process. Instead, fraudulent actors have used hospice to prey on vulnerable individuals and their families. Draining funds meant for sick Californians is abhorrent and we must address this crisis. This bill will reduce the negligence and fraud that targets the terminally ill by codifying recommendations made by the California State Auditor.

State Audit. California State Auditor Report 2021-123 on California Hospice Licensure and Oversight was published on March 29, 2022, and found multiple indicators of fraud and abuse, in particular in Los Angeles County. The audit contains numerous findings and recommendations, including that growth in the number of hospice agencies in Los Angeles County has vastly outpaced the need for hospice services, and recent growth is almost exclusively in for-profit companies. The audit found numerous indicators suggesting that many of these hospice agencies may have been created to fraudulently bill Medicare and Medi-Cal for services rendered to ineligible patients or services not provided at all.

The state audit finds that the state agencies responsible for overseeing hospice care in California have failed to take adequate measures to prevent such fraud or to protect patients from unqualified and unscrupulous providers. CDPH has yet to issue regulations for its hospice licensing processes, despite having had the authority to do so since 1991. CDPH's current initial licensing process does not require adequate screening to ensure that hospice employees are qualified to provide services to patients. Since 2015 CDPH has not suspended a hospice license and has revoked a hospice license only once. Despite these widespread problems in the hospice program, CDPH and the two state agencies primarily responsible for identifying and investigating hospice fraud in Medi-Cal, the Department of Health Care Services and the Department of Justice, have not sufficiently coordinated their efforts.

License transfer. The audit also brought to light problems with the selling or transferring of hospice licenses. According to the audit, although CDPH requires hospice agencies to report when they change owners or locations, it has not created guidelines for when these changes require a new inspection. CDPH instructs hospice agencies to submit a new application form when such changes take place that asks for the same information as the original licensing application, such as the names of the owners and a copy of the lease, if applicable. However, it does not have a process for enforcing the submission of this application or have a requirement to perform an inspection when these changes take place. Consequently, hospice owners can sell their businesses or move to new locations with little to no oversight for ensuring that patients will continue to receive quality care.

Related/Prior Legislation

AB 1280 (Irwin, Chapter 478, Statutes of 2021) prohibited a hospice referral source from receiving, directly or indirectly, any form of payment in exchange for referring a patient to hospice provider or facility. Required a hospice to provide verbal and written notice of the patient's rights and responsibilities in a language and manner the person understands, before providing care.

SB 664 (Allen, Chapter 494, Statutes of 2021) imposed a moratorium on new hospice licenses until one year from the date that the California State Auditor publishes a report on hospice licensure.

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

According to the Senate Appropriations Committee, CDPH estimates state operation costs of $2,076,000 in 2022-23, $2,905,000 in 2023-24, $2,050,000 in

2024-25, $1,990,000 in 2025-26, and $1,909,000 ongoing thereafter (Licensing and Certification Fund).

SUPPORT: (Verified 8/12/22)

California Association for Health Services at Home
California Hospice and Palliative Care Association

OPPOSITION: (Verified 8/12/22)

Department of Finance

ARGUMENTS IN SUPPORT: The California Hospice and Palliative Care Association (CHAPCA) writes that as currently in print, this bill will extend the hospice license moratorium enacted last year. CHAPCA believes the enforcement of the moratorium exceeds the intent and language of the enacting legislation, SB 664; at the same time, CHAPCA recognizes the imperative to ensure the hospice licensure approval process is conducted in a methodical manner and they appreciate the collaboration to provide clarification to the moratorium. Specifically to this issue, CHAPCA appreciates exempting licensed hospice facilities from the moratorium. There are only 18 of these facilities in the state, with several more intending to apply for approval after having spent years in the construction and funding to design and build these health facilities. In addition to the distinction between a licensed hospice program and a health facility that must be regulated by the state, there is no evidence or anecdote that hospice facilities are contributing to diminished quality of care, commoditizing hospice reimbursement, or any other unscrupulous action. Hospice care is needed at a most critical point in the continuum of care. Not just for the individual, but for their loved ones as well. There is no place in this system for those who would exploit the terminally ill, the vulnerable, their families, or to defraud the government or the health care system in the whole. CHAPCA wholeheartedly and enthusiastically embraces this bill and is pleased to work with you and others to address the flaws in this end of the continuum of care.

California Association for Health Services at Home (CAHSAH) writes that they are supportive of the important intent of this measure, but have some concerns regarding how the time and distance requirements will be implemented as well as how to ensure nursing ratios do not impact the continuum of hospice care. CAHSAH states the Medicare Hospice Benefit is specifically designed with reimbursement that is not linked to distance traveled. There is concern about how patients who are already being cared for by a hospice agency will be impacted if that agency is deemed not to be in a newly specified geographic area. Many

factors must be considered when establishing time and distance requirements such as the acuity of the hospice patient. CAHSAH looks forward to working with CDPH on the implementation of this important measure.

ARGUMENTS IN OPPOSITION: The Department of Finance is opposed to this bill because it creates additional cost pressures on the Licensing and Certification Fund, would likely expedite the need for a fee increase, and may be duplicative of similar initiatives in the 2022 Budget Act. Finance also notes concern that CDPH will likely need General Fund resources in 2022-23 or they may not be able to finalize regulations by January 1, 2024, as required by this bill.

The 2022 Budget Act included $1 million General Fund in 2022-23 available over three years to establish and facilitate a Hospice Fraud Task Force that includes representation from the California Health and Human Services Agency, CDPH, the Department of Health Care Services, the Department of Social Services, and the Department of Justice (DOJ) to identify and investigate fraud and refer cases of suspected fraud to the DOJ for prosecution. By January 1, 2025, the task force must also provide a recommendation to the Legislature on whether it should be established permanently to continue its work on an ongoing basis.

ASSEMBLY FLOOR: 72-0, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Mia Bonta, Mayes, O'Donnell, Petrie-Norris, Blanca Rubio

Prepared by: Teri Boughton / HEALTH / (916) 651-4111
8/23/22 13:23:17

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

SENATE RULES COMMITTEE AB 2677
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2677
Author: Gabriel (D), et al.
Amended: 8/23/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 10-0, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, Jones, McGuire, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: 5-0, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NO VOTE RECORDED: Bates, Jones

ASSEMBLY FLOOR: 73-0, 5/25/22 - See last page for vote

SUBJECT: Information Practices Act of 1977

SOURCE: Author

DIGEST: This bill amends the Information Practices Act by updating definitions, bolstering existing protections, applying data minimization principles, limiting disclosure, and increasing accountability.

Senate Floor Amendments of 8/23/22 delay implementation and refine the liability standard for certain unlawful disclosures.

ANALYSIS:

Existing law:

1) Provides, pursuant to the California Constitution, that all people have inalienable rights, including the right to pursue and obtain privacy. (Cal. Const., art. I, Sec. 1.)

2) Establishes the Information Practices Act of 1977 (IPA), which declares that the right to privacy is a personal and fundamental right protected by Section 1 of Article I of the Constitution of California and by the United States Constitution and that all individuals have a right of privacy in information pertaining to them. It further states the following legislative findings:

    a) The right to privacy is being threatened by the indiscriminate collection, maintenance, and dissemination of personal information and the lack of effective laws and legal remedies;
    b) The increasing use of computers and other sophisticated information technology has greatly magnified the potential risk to individual privacy that can occur from the maintenance of personal information; and
    c) In order to protect the privacy of individuals, it is necessary that the maintenance and dissemination of personal information be subject to strict limits. (Civ. Code § 1798 et seq.)

3) Defines "personal information" (PI) for purposes of the IPA as any information that is maintained by an agency that identifies or describes an individual, including, but not limited to, the individual's name, social security number, physical description, home address, home telephone number, education, financial matters, and medical or employment history. It includes statements made by, or attributed to, the individual. (Civ. Code § 1798.3(a).)

4) Defines "agency" to include every state office, officer, department, division, bureau, board, commission, or other state agency. "Agency" explicitly excludes:

    a) The California Legislature;
    b) Any agency established under Article VI of the California Constitution;
    c) The State Compensation Insurance Fund, except as to any records that contain personal information about the employees of the State Compensation Insurance Fund; or
    d) A local agency, as defined. (Civ. Code § 1798.3(b).)

5) Provides that each agency shall maintain in its records only PI which is relevant and necessary to accomplish a purpose of the agency required or authorized by the California Constitution or statute or mandated by the federal government; and requires each agency to maintain all records, to the maximum extent possible, with accuracy, relevance, timeliness, and completeness. (Civ. Code §§ 1798.14, 1798.18.)

6) Requires an agency that collects PI to maintain the source of that information, except as specified; and specifies that each agency shall collect PI to the greatest extent practicable directly from the individual who is the subject of the PI. (Civ. Code §§ 1798.15, 1798.16.)

7) Requires each agency to provide with any form used to collect PI from individuals a notice containing specified information. (Civ. Code § 1798.17.)

8) Requires each agency to establish rules of conduct for persons involved in the design, development, operation, disclosure, or maintenance of records containing PI and to instruct each such person with respect to those rules; and further requires each agency to establish appropriate and reasonable administrative, technical, and physical safeguards to ensure compliance with the provisions of the IPA, to ensure the security and confidentiality of records, and to protect against anticipated threats or hazards to their security or integrity which could result in an injury. (Civ. Code § 1798.20.)

9) Prohibits an agency from disclosing any PI in a manner that would link the information disclosed to the individual to whom it pertains unless the information is disclosed in specified ways, including with the prior written voluntary consent of the individual to whom the PI pertains within the preceding 30 days. (Civ. Code § 1798.24.)

10) Requires each agency to keep an accurate accounting of the date, nature, and purpose of each disclosure of a record made pursuant to specified circumstances; and requires each agency to retain that accounting for at least three years after the disclosure, or until the record is destroyed, whichever is shorter. (Civ. Code §§ 1798.25, 1798.27.)

11) Grants individuals with specified rights in connection with their PI, including the right to inquire and be notified as to whether the agency maintains a record about them; to inspect all PI in any record maintained; and to submit a request in writing to amend a record containing PI pertaining to them maintained by an agency. (Civ. Code § 1798.30, et seq.)

12) Provides that an agency that fails to comply with any provisions of the IPA may be enjoined by any court of competent jurisdiction, and, as specified, the agency may be liable to the individual in an amount equal to the sum of actual damages sustained by the individual, including damages for mental suffering, and the costs of the action together with reasonable attorney's fees as determined by the court. (Civ. Code §§ 1798.46-1798.48.)

13) Provides that the intentional violation of any provision of the IPA, shall constitute a cause for discipline; and further specifies that the intentional disclosure of medical, psychiatric, or psychological information in violation of the IPA is punishable as a misdemeanor if the wrongful disclosure results in economic loss or personal injury to the individual to whom the information pertains. (Civ. Code §§ 1798.55, 1798.57.)

14) Establishes the California Consumer Privacy Act (CCPA), which grants consumers certain rights with regard to their personal information. (Civ. Code § 1798.100 et seq.) Establishes the California Privacy Rights Act of 2020 (CPRA), which amends the CCPA and creates the California Privacy Protection Agency (PPA), which is charged with implementing these privacy laws, promulgating regulations, and carrying out enforcement actions. (Civ. Code § 798.100 et seq.; Proposition 24 (2020).)

15) Requires a business that collects a consumer's personal information to, at or before the point of collection, inform consumers of specified information. (Civ. Code § 1798.100(a).)

16) Defines "personal information" as information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household. The CCPA provides a nonexclusive series of categories of information deemed to be personal information, including biometric information, geolocation data, and "sensitive personal information." (Civ. Code § 1798.140(v)(1).)

17) Extends additional protections to "sensitive personal information," which is defined as personal information that reveals particularly sensitive information such as genetic data and the processing of biometric information for the purpose of uniquely identifying a consumer. (Civ. Code § 1798.140(ae).)

This bill:

1) Updates the definition of "personal information" to include any information that is maintained by an agency that is reasonably capable of identifying or describing an individual, including, but not limited to, the individual's name, social security number, physical description, address, telephone number, education, financial matters, and medical or employment history. It also includes genetic information, IP address, online browsing history, and location information, if reasonably capable of identifying an individual. It includes statements made by, or attributed to, the individual.

2) Removes the term "system of records" and simplifies the definition of "record" to include any file or grouping of personal information that is maintained by an agency. Includes the Financial Industry Regulatory Authority within the definition of "regulatory agency."

3) Requires the notice accompanying data collection to include all purposes within the agency for which the collected PI is to be used.

4) Requires the rules of conduct to be consistent with the State Administrative Manual and the State Information Management Manual.

5) Prohibits an agency from using records containing PI for any purpose or purposes other than those for which that PI was collected, except as required by federal law, or as authorized or required by state law.

6) Tightens the bases for disclosure of PI that links or reasonably could link it to an individual. This includes removing disclosure to a law enforcement or regulatory agency when required for an investigation of unlawful activity or for licensing, certification, or regulatory purposes, unless the disclosure is otherwise prohibited by law.

7) Requires the notification DMV is required to make to be provided to the person to whom the PI relates.

8) Requires retention of accounting for at least three years.

9) Extends the basis for discipline to negligent violations of the IPA.

10) Removes the condition that in order to be held liable for intentional disclosure of specified medical records there must be resultant economic harm or personal injury. It provides that it must be known or should have been known that the disclosure was in violation of its provisions.

11) Becomes operative on January 1, 2025.

Comments

The IPA and Californians' privacy

Modeled after the Federal Privacy Act of 1974, the Information Practices Act is the statutory scheme that governs the collection, maintenance, and disclosure of personal information by state agencies, specifically excluding local agencies. The IPA places guidelines and restrictions on the collection, maintenance, and disclosure of Californians' PI. State agencies are required to provide notice to

individuals of their rights with respect to their PI, the purposes for which the PI will be used, and any foreseeable disclosures of that PI. Passed over 40 years ago, it has not been meaningfully updated since.

The CCPA, later amended by the CPRA, grants a set of rights to consumers with regard to their personal information. The CCPA defines "personal information" as information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household. The CCPA provides a nonexclusive series of categories of information deemed to be personal information. However, the modernized protections of the CCPA only apply to businesses. The IPA on the other hand has not been updated in decades, leaving its framework vulnerable.

This bill seeks to bring the IPA into this new era and bolster the protections for Californians' PI that is collected, used, and retained by state agencies, especially in light of increased data insecurity issues at various state agencies. This includes updating the definition of personal information to include information that is reasonably capable of identifying an individual, prohibiting an agency from using records containing personal information for any purposes other than those for which the PI was collected, except as specified, and adjusting penalties for violations of the law to include discipline for negligent violations and to eliminate injury-in-fact requirements for intentional disclosures of sensitive information.

According to the author:

> Despite epochal advances in information technology, the Information Practices Act (IPA), which governs the collection, use, and disclosure of Californian's personal information by state agencies, has not been meaningfully updated since its passage in 1977. As the technology employed by the state to better serve the people has become increasingly sophisticated, the definitions and protections provided by the IPA have fallen out of step with the types of information with which we entrust our government. An update to the IPA to better reflect our changing relationship with information in the 21st Century is long overdue.
>
> In 1977, the passage of the IPA was a landmark moment in this State's commitment to the right to privacy guaranteed by the California Constitution. AB 2677 would renew California's leadership in recognizing the immense importance of privacy rights to the liberty of its people.

[NOTE: For a more thorough discussion of the bill, please see the relevant Senate Judiciary Committee analysis.]

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

According to the Senate Appropriations Committee:

- CSU: Ongoing costs in the millions of dollars to the California State University to increase staff, and implement training and infrastructure (Special Fund – California State University Trust Fund, General Fund).

- Local Reimbursement: Potentially reimbursable costs, possibly in the millions of dollars to tens of millions of dollars to local agencies, including cities, counties and special districts to comply with the IPA (Local Funds, General Fund). Costs will likely include third-party vendor contracts for consultants to advise on data system compliance with the IPA, significant investment in information technology (IT) infrastructure, extensive employee training, additional staff to liaise with the California Department of Technology (CDT) and numerous form and policy updates. General Fund costs will depend on whether the duties imposed by this bill are considered a reimbursable state mandate by the Commission on State Mandates.

- CDI: The Department of Insurance reports costs of $26,000 in FY 2022-23, $117,000 in FY 2023-24, and $87,000 annually thereafter (Special Fund – Insurance Fund).

- CDT: Unknown, potentially significant costs to the Department of Technology (CDT) in additional staff if CDT is required to hire additional oversight managers to interface with local agencies on IPA compliance issues (General Fund).

SUPPORT: (Verified 8/23/22)

ACLU California Action
Electronic Frontier Foundation
The League of Women Voters
Privacy Rights Clearinghouse

OPPOSITION: (Verified 8/23/22)

None received

ARGUMENTS IN SUPPORT: The League of Women Voters writes, "AB 2677 is an update to the nature of personal information protected by the

Information Practices Act of 1977 (IPA). It also strengthens the rules of conduct of individuals involved in managing these records. These are timely changes, introduced when records including individual information proliferate and privacy is at risk. The prior version of the bill would have applied these provisions to local governmental entities, and we encourage you to pursue those expanded protections next year."

ASSEMBLY FLOOR: 73-0, 5/25/22
AYES: Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Aguiar-Curry, Berman, Boerner Horvath, Cristina Garcia, O'Donnell

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
8/24/22 19:35:51

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

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THIRD READING

Bill No: AB 2684
Author: Berman (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 13-0, 6/27/22
AYES: Roth, Melendez, Archuleta, Bates, Becker, Dodd, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Eggman

SENATE APPROPRIATIONS COMMITTEE: 6-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, Wieckowski
NO VOTE RECORDED: McGuire

ASSEMBLY FLOOR: 76-0, 5/25/22 - See last page for vote

SUBJECT: Nursing

SOURCE: Author

DIGEST: This bill requires the Board of Registered Nursing (BRN) to establish a Nursing Education and Workforce Advisory Committee, requires the BRN's executive officer (EO) to establish a uniform method to evaluate request and grant approvals for schools of nursing, and prohibits payments for clinical placement, extend the operations of the BRN by four years, until January 1, 2027, among other changes related to the BRN's sunset review.

Senate Floor Amendments of 8/25/22 delete the authorization for the Nurse Education and Workforce Advisory Committee to appoint additional subcommittee members, clarify requirements for nurse practitioners to obtain a furnishing certificate, and make other technical and clarifying changes, and resolve chaptering conflicts.

ANALYSIS:

Existing law:

1) Establishes the BRN to provide for the licensure and regulation of the practice of nursing and authorizes the BRN to issue a certificate to practice as a Nurse Practitioner (NP) to a person who meets educational standards established by the BRN or the equivalent of those educational standards until January 1, 2023. (Business and Professions Code (BPC) §§ 2700 et seq.)

2) Defines the practice of nursing to mean those functions including basic health care, that help people cope with difficulties in daily living that are associated with their actual or potential health or illness problems or treatments that require a substantial amount of scientific knowledge or technical skill, as specified. (BPC § 2725(b))

3) Defines an advanced practice registered nurse, as those licensed RNs who have met specified requirements for registration as Nurse Practitioners, Nurse Anesthetists, Nurse Midwives, and Clinical Nurse Specialists, as specified. (BPC § 2725.5)

4) Defines an approved school or an approved nursing program as one that has been approved by the BRN, gives courses of instruction approved by the BRN, covering not less than two academic years, is affiliated or conducted in connection with one or more hospitals and is an institution of higher education, as defined. (BPC § 2786(a))

This bill:

1) Establishes, within the jurisdiction of the BRN, a Nursing Education and Workforce Advisory Committee, which will solicit input from approved nursing programs and members of the nursing and health care professions, to study and recommend nursing education standards and solutions to the BRN, as specified. Authorizes that committee to establish subcommittees to study issues specific to education, workforce, or any other topic relevant to the purpose of the committee, as specified.

2) Requires the BRN's EO to develop a uniform method for evaluating requests and granting approvals for nursing schools and programs, as specified, to which the BRN's Nurse Education Consultants (NEC) must use to grant approvals and approve requests, and requires the BRN to post the uniform method on its website.

3) Clarifies that the appointing authority for BRN board members has the power to remove the member from office for neglect of duties, incompetence or unprofessional or dishonorable conduct.

4) Prohibits an institution of higher education or a private postsecondary school of nursing from paying any clinical agency or facility for clinical experience placements for students enrolled in a nursing program offered by that school of nursing, as specified.

5) Extends specified COVID-19 flexibilities for approved schools of nursing relating to clinical experience, as specified.

6) Establishes a minimum number of direct patient care clinical hours, as specified.

7) States that an approved school of nursing or nursing program is not required to track the minimum clinical hours by individual students for purposes of completing required direct patient care hours, as specified.

8) Revises the BRN's approval process for nursing programs and limit the BRN's utilization of workforce data assessments to determine school approval, as specified.

9) Requires the BRN to utilize data from available regional or institutional databases and place an annual report on their website related to collecting data pertaining to clinical placement slots, as specified.

10) Clarifies requirements for nurse practitioners to obtain a furnishing certificate.

11) Eliminates the fee for continuing approval of a nursing program, as specified, and deletes additional specified fees.

12) Extends the sunset date of the BRN by four years, until January 1, 2027, and makes numerous other technical and conforming changes.

Background

In early 2022, the Senate Business, Professions and Economic Development Committee and the Assembly Business and Professions Committee (Committees) began their comprehensive sunset review oversight of 10 regulatory entities including the BRN. The Committees conducted three oversight hearings in March of this year. This bill and the accompanying sunset bills are intended to implement legislative changes as recommended by staff of the Committees and which are

reflected in the Background Papers prepared by Committee staff for each agency and program reviewed this year.

The BRN regulates over 500,000 nurse-licensees in California. The BRN is responsible for setting educational standards for all nursing programs, approving such programs, approving continuing education providers, evaluating and licensing applicants, administering discipline, managing an intervention program for licensees with substance use disorders or mental illness, and providing stakeholder information and outreach. To be eligible for licensure in California, an individual must complete an education program approved by the BRN. All programs are required to meet the BRN's regulatory requirements for approved programs and curriculum and the BRN must determine the areas of course work required for each program through regulations.

The following are some of the issues pertaining to BRN along with background information concerning the particular issue. Recommendations made by Committee staff regarding the particular issue areas to be addressed.

Issue 20: Education Committee Composition. The BRN has established an Education/Licensing Committee (ELC) to approve and review schools, among other functions. Several stakeholders raised the issue of whether the BRN's ELC should have members with more diverse experiences, such as in curriculum development, accreditation, or management of clinical sites. In response, this bill will establish, within the jurisdiction of the BRN, a Nursing Education and Workforce Advisory Committee, to solicit input from approved nursing programs and members of the nursing and health care professions to study and recommend nursing education standards to the BRN. This bill specifies the committee members to be included and additionally requires the committee to study and recommend standards for simulated clinical experiences based on best practices by specified entities.

Issue 27: Nurse Education Consultants (NEC) Consistency. Stakeholders have reported that when comparing notes, they may receive differing decisions or policies. A large number of these reports were in relation to the implementation of the Governor's COVID-19 waivers. As a result, AB 2288 (Low) specifically required the BRN's EO to develop a uniform standard for approvals so that NECs would be consistent. On this topic, the BRN reports that it has increased the Joint NEC meeting frequency to every other week to provide training and collaboration to ensure rules and regulations are applied consistently. To help address consistency amongst NECs in the education granting of approval and requests related to education providers, this bill will require the EO to develop a uniform

method for evaluating request and granting approvals for education programs. In addition, this bill will require the BRN to make this information available on its website. The BRN's NECs will be required to utilize the uniform method in its approval process.

Issue 28: Clinical Placements. The Committees have previously raised, and continue to work on, the issue of the availability of clinical placements for all nursing students, including RNs and licensed vocational nurses. The availability of student placements for clinical experiences is based on clinical facilities, such as hospitals or clinics that are willing to accept and teach students. While there are no requirements that facilities accept students, many willingly accept students because it is necessary for the workforce and can help with recruitment. The facilities must have staff that is qualified to teach and supervise students, and often develop contracts with partner educational programs to outline responsibilities, liability, and expectations. As a result, clinical placements are often difficult to find, and even more so during the pandemic when partner facilities were turning students away. While the BRN has little to no direct control over the actual availability of placements, it has been a large part of the ongoing discussion. Part of the issue with clinical placement is the fairness in which some academic institutions may find clinical spots at facilities while other cannot. This bill will specifically prohibit an institution of higher education or a private postsecondary school of nursing from making a payment to any clinical agency or facility in exchange for clinical placements spots.

Issue 12: Implementation of Recent Legislation Impacting Advanced Practice Nurses. In 2020, the Legislature passed and the Governor signed into law, two bills that established a framework for the independent practice of advanced practice nurses. AB 890 (Wood, Chapter 265, Statutes of 2020) provided NPs clear pathways to independent practice while SB 1237 (Dodd, Chapter 88, Statutes of 2020) provided parameters for CNM independence. NPs and CNMs are both licensed and certified by the BRN and before obtaining an advance practice certificate; NPs and CNMs must first hold an RN license. This bill adds technical, clarifying and conforming changes to the nurse practice act to assist with implementation of AB 890, which authorized NPs to practice independently of physician supervision if specified requirements are met.

Issue 23: Duplication of Program Review. The State Auditor found that some of BRN's requirements for nursing programs overlap with standards imposed by national nursing program accreditors. The State Auditor recommended, as part of the Legislature's 2021 review of the BRN, that it could consider the

appropriateness of restructuring the BRN's oversight to leverage portions of the accreditors' review to reduce duplication and more efficiently use state resources.

Many of the criteria reviewed by the BRN, including faculty, facilities, and resources, are additionally reviewed by accreditors. Given that the BRN may offer similar services to programmatic accreditation, there may be no reason to seek additional programmatic accreditation. This bill aims to reduce duplication in the accreditation and BRN-approval process for nursing programs and limit the BRN's utilization of workforce data assessments to determine school approval, as specified.

Issue 24: Faculty Approval. As part of its school approval process, the BRN reviews proposed faculty for their qualifications. Some stakeholders have noted that these requirements may be unnecessary or are duplicative of accreditors. The auditor has noted that there are differences in the BRN's approval requirements. However, some stakeholders note that approved program directors should be trusted to select whomever they believe to be most qualified. They have also cited a faculty shortage that they believe they need the flexibility to address. This bill requires the BRN to approve faculty decisions made by an approved program director, as specified.

Issue 25: Clinical Simulation. The use of simulated clinical experiences has increased as educational programs and faculty gain expertise in the use of simulation as a pedagogy. In addition, new technologies allow for simulated experiences that were not possible in the past. Newer high-fidelity laboratories, complex mannequins, computer and online programs, virtual reality, and other modalities allow students to experience cases or scenarios that they may never see in a real clinical setting. Current law requires a percentage of clinical experience be in direct patient care. Instead of a percentage requirement, this bill establishes a minimum number of direct patient care clinical hours that an approved nursing school or nursing program must meet. This bill does not require a school to track the minimum clinical hours by individual students. In addition, this bill allows theory to precede clinical practice if specified conditions are met including when an agency or facility used by an approved nursing program is no longer available or sufficient, as specified.

Issue 37: Technical Edits. As noted in the Staff Background Paper, there may be technical changes to the Nursing Practice Act that are necessary to enhance or clarify the Act or assist with consumer protection. In response, the Author has proposed amendments to this bill to: add technical changes to streamline the BRN's furnishing application process, by consolidating the process into one

application; add technical changes to delete the current floor set for a number of licensing fees, which will provide the BRN with flexibility in reducing fees if the BRN finds it necessary. The changes are not intended to alter the current fee ceilings, raise fees or lower fees in this bill; and, add technical language related to LVN to RN bridge programs.

Issue 38: Sunset Extension. The BRN appears to have made significant progress in its enforcement processes since 2015, and has completed the majority of the State Auditor's recommendations in that regard. However, that progress was undermined by the misconduct of prior BRN executives in addressing the State Auditor's recommendations. There are also a number of outstanding questions relating to the BRN's consumer services and satisfaction; license requirements, procedures, and processing timelines. Further, there are ongoing conversations around many aspects of the BRN's RN prelicensure approval process and the ongoing implementation of the recent JLAC Audit of its enrollment decision processes. This bill adds a four-year sunset extension of the BRN, until January 1, 2027, which subjects the BRN to review by the appropriate policy committees of the Legislature, and extends the BRN's authority to appoint an EO until January 1, 2027.

AB 2288 (Low, Chapter 282, Statutes of 2020) COVID-19 Flexibilities. In response to the reported loss of clinical placements during the pandemic, AB 2288 authorized the director of an approved nursing program, during a state of emergency, or until the end of the 2020–21 academic year, to make requests to the BRN for the following: (1) use a clinical setting without meeting specified requirements; (2) use preceptorships without having to maintain specified written policies; (3) use clinical simulation up to 50% for medical-surgical and geriatric courses; (4) use clinical simulation up to 75% for psychiatric-mental health nursing, obstetrics, and pediatrics courses; and (5) waive concurrency of theory and clinical by one academic term. That flexibility was further extended in the BRN's prior sunset bill, AB 1532 (Committee on Business and Professions), by one academic year. Recognizing that the flexibility has continued to benefit programs, this bill seeks to extend those provisions.

Comments

Various organizations have provided feedback to the Legislature since this bill was last heard in a policy committee in June 2022. The California Association of Private Postsecondary Schools, the Gurnick Academy, Mount Saint Mary's University, Los Angeles, and Unitek College notes their support for this bill if amended to remove the BRN's oversight of nursing school enrollments.

Further, the BRN took a support if amended position and has requested that the provisions of AB 2288 not be extended in perpetuity, that the BRN's ability to conduct up front curriculum reviews be restored, and further BRN expressed concerns with changes in the measure to the BRN's current school approval process related to accepting accreditor approvals.

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

According to the Senate Appropriations Committee, this bill will result in costs of $59.88 million to support the continued operation of the BRN's licensing and enforcement activities. The BRN estimates one-time costs of approximately $178,000 in Fiscal Year 2023-24 to establish the Nursing Education Advisory Committee and $671,000 ongoing to support case workload and maintain the committee.

SUPPORT: (Verified 8/25/22)

None received

OPPOSITION: (Verified 8/25/22)

None received

ASSEMBLY FLOOR: 76-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
8/26/22 15:47:50

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

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THIRD READING

Bill No: AB 2686
Author: Berman (D), et al.
Amended: 8/24/22 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 13-0, 6/27/22
AYES: Roth, Melendez, Archuleta, Bates, Becker, Dodd, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Eggman

SENATE APPROPRIATIONS COMMITTEE: 6-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, Wieckowski
NO VOTE RECORDED: McGuire

ASSEMBLY FLOOR: 76-0, 5/25/22 - See last page for vote

SUBJECT: Speech-language pathologists, audiologists, and hearing aid dispensers

SOURCE: Author

DIGEST: This bill extends the sunset date of the Speech-Language Pathology, Audiology, and Hearing Aid Dispensers Board (Board) by four years, until January 1, 2027, and makes additional changes to the Speech-Language Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act stemming from the recent sunset review oversight for the Board.

Senate Floor Amendments of 8/24/22 resolve chaptering conflicts with SB 1453 (Ochoa Bogh).

Senate Floor Amendments of 8/16/22 repeal the Hearing Aid Dispensing Committee from statute and made additional technical and clarifying changes.

ANALYSIS:

Existing law:

1) Establishes the Speech-Language Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act (Act) for the purposes of regulating speech-language pathologists, audiologists, and hearing aid dispensers and establishes the Board until January 1, 2023 to administer the Act. (Business and Professions Code (BPC) §§ 2530 et seq and 2531.)

2) Establishes the Hearing Aid Dispensing Committee within the jurisdiction of the Board, and specifies that the Committee shall be comprised of two licensed audiologists; the two licensed hearing aid dispensers; one public member of the Board; and the public member of the Board who is a licensed physician and surgeon and who is board certified in otolaryngology. Requires the Committee to review and research the practice of fitting or selling hearing aids and advise the Board about this practice based on that review and research. (BPC § 2531.05)

3) Specifies that the offer, delivery, receipt, or acceptance by any person licensed under provisions of the Business and Professions Code and Chiropractic Initiative Act of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person, irrespective of any membership, proprietary interest, or coownership in or with any person to whom these patients, clients, or customers are referred is unlawful. (BPC § 650(a))

4) Authorizes the Board to refuse to issue, or issue subject to terms and conditions, a license, or may suspend, revoke, or impose terms and conditions upon the license of any licensee for specified convictions and violations of law.

5) Requires speech-language pathologists and audiologists supervising speech-language pathology or audiology aides to register with the Board the name of each aide working under their supervision. The number of aides who may be supervised by a licensee shall be determined by the Board. The supervising audiologist or speech-language pathologist shall be responsible for the extent, kind, and quality of services performed by the aide, consistent with the Board's designated standards and requirements. (BPC § 2530.6)

6) Requires an applicant seeking licensure as an audiologist to submit evidence of satisfactorily completing 12 months of required professional experience under

the direction of a Board-approved audiology doctoral program and following completion of the didactic and clinical rotation requirements of the audiology doctoral program (BPC § 2532.25(b)(2))

7) Specifies that the Board shall deem a person who holds a valid certificate of clinical competence in speech-language pathology or audiology issued by the American Speech-Language-Hearing Association's Council for Clinical Certification to have met the educational and experience requirements set forth for speech-language pathologists or audiologists. (BPC § 2532.8)

8) Specifies that the Board shall hear and decide a matter, including, but not limited to, a contested case or a petition for reinstatement or modification of probation, or may assign the matter to an administrative law judge in accordance with the Administrative Procedure Act. (BPC § 2533.5(b))

This bill:

1) Extends the Board's sunset date to January 1, 2027.

2) Specifies that a speech-language pathology and audiology aide registration shall expire every two years and is subject to renewal requirements, as specified. In order to renew registration, the supervising speech-language pathologist or audiologist shall update the Board on the duties of the aide and the training and assessment methods used to ensure the aide's competency.

3) Requires an applicant, registrant, or licensee who has an email address to provide the Board with that email address no later than July 1, 2023, and to provide to the Board any and all changes to their email address no later than 30 calendar days after the changes have occurred. Specifies that a licensee's email address shall be considered confidential and not subject to public disclosure.

4) Repeals the Hearing Aid Dispensing Committee from statute.

5) Authorizes each appointing authority to remove from office at any time any member of the Board appointed by that authority.

6) Removes the requirement that the required professional experience for an audiology license application must follow the completion of the didactic and clinical rotation requirements of the audiology doctoral program.

7) Specifies that until January 1, 2027, the Board shall deem a person who holds a valid Certificate of Clinical Competence in Speech-Language Pathology issued by the American Speech-Language-Hearing Association's Council for Clinical

Certification to have met the educational and experience requirements to be an audiologist, and a person who holds a valid Certificate of Clinical Competence in Audiology issued by the American Speech-Language-Hearing Association's Council for Clinical Certification or a valid American Board of Audiology certificate issued by the American Academy of Audiology to have met the educational and experience requirements set forth for audiologists.

8) Authorizes the Board to suspend, revoke, or impose terms and conditions upon the license of any licensee for:

   a) Engaging in any action in violation of BPC § 650;

   b) Disciplinary action taken by any public agency in any state or territory for any act substantially related to the practice of speech-language pathology, audiology, or hearing aid dispensing;

   c) Aiding or abetting any person to engage in the unlicensed practice of speech-language pathology, audiology, or hearing aid dispensing;

   d) Violating or attempting to violate, directly or indirectly, any existing laws related to speech-language pathologists, audiologists, and hearing aid dispensers.

9) Specifies that a person whose license has been revoked or suspended, or who has been placed on probation, may petition the Board for reinstatement or modification of penalty, including modification or termination of probation, after a minimum period time, as specified, has elapsed from the effective date of the decision ordering that disciplinary action. Specifies the process for a person to file this petition and the process for the petition to be heard by the Board. States that no petition shall be considered while the petitioner is under sentence for any criminal offense, as specified. Allows the Board to deny, without a hearing or argument, any such petition for termination or modification of probation filed under specified conditions.

10) Includes a section of this bill which incorporates amendments to BPC Section 2530.2 proposed by both this bill and SB 1453 (Ochoa Bogh). Specifies conditions that would enable this section to become operative to resolve chaptering conflicts with SB 1453.

11) Makes other minor technical and clarifying changes.

Background

In early 2022, the Senate Business, Professions and Economic Development Committee and the Assembly Business and Professions Committee began their comprehensive sunset review oversight of 10 regulatory entities including the Board. The Committees conducted three oversight hearings in March of this year. This bill and the accompanying sunset bills are intended to implement legislative changes as recommended by staff of the Committees and which are reflected in the Background Papers prepared by Committee staff for each agency and program reviewed this year.

The Hearing Aid Dispensers Examining Committee (HADEC) was established under the jurisdiction of the Medical Board of California (MBC) in 1970 (AB 532, Zenovich, Chapter 1514, Statutes of 1970). In 1988, legislation (SB 2250, Rosenthal, Chapter 1162, Statutes of 1988) transferred the enforcement program from MBC to HADEC. SB 1592 (Rosenthal, Chapter 441, Statutes of 1996) authorized HADEC to adopt, amend, or repeal regulations related to the practice of fitting or selling hearing aid devices.

The Speech Pathology and Audiology Examining Committee (SPAEC) was established in 1972 under the jurisdiction of the MBC (SB 796, Whetmore, Chapter 1355, Statutes of 1972). SB 1346 (Business and Professions Committee, Chapter 758, Statutes of 1997) renamed SPAEC to Speech-Language Pathology and Audiology Board.

The Board licenses and regulates more than 35,000 licensees including 19,167 active Speech-Language Pathologists, 1,747 active Audiologists, and 1,154 active Hearing Aid Dispensers, among a total of 11 separate professions. Each profession has its own scope of practice, entry-level requirements, and professional settings, with some overlap in treated pathologies and rehabilitation.

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

According to the Senate Appropriations Committee, the fiscal effect of this bill is estimated to be an annual cost of approximately $2.43 million and 12.6 positions to support the continued operation of the Board's licensing and enforcement activities.

SUPPORT: (Verified 8/23/22)

California Academy of Audiology
Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board

OPPOSITION: (Verified 8/23/22)

None received

ARGUMENTS IN SUPPORT: The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board writes in support and notes, "This bill would ensure the Board is able to continue to do its important consumer protection work until January 1, 2027, and would make a number of clarifying and technical amendments requested by the Board in its Sunset Review report. This bill would also provide the Board with authority to require applicants and licensees to provide their email address, which would allow the Board to quickly and efficiently communicate new information."

The California Academy of Audiology writes in support and notes, "The Board's professional and public members are actively engaged in their duty to ensure the highest and best practices of the professions regulated for the protection of the consumer. The Board's executive officer brings expertise, focus and a strong commitment to fulfilling the mission of the Board and providing strong support for the Board's members."

ASSEMBLY FLOOR: 76-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Hannah Frye / B., P. & E.D. /
8/26/22 15:47:51

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

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THIRD READING

Bill No: AB 2693
Author: Reyes (D)
Amended: 8/25/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 6/8/22
AYES: Cortese, Durazo, Laird, Newman
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 47-20, 5/23/22 - See last page for vote

SUBJECT: COVID-19: exposure

SOURCE: Author

DIGEST: This bill 1) extends to January 1, 2024, the sunset date on COVID-19 related workplace reporting requirements and for the Division of Occupational Safety and Health's authority to disable an operation or process at a place of employment when the risk of COVID-19 infection creates an imminent hazard; 2) revises and recasts COVID-19 exposure reporting provisions to require employers to display a notice with information on confirmed COVID-19 cases at the worksite; 3) authorizes employers to post this information on an employer portal or continue to provide it in writing; and 4) strikes requirements in existing law pertaining to the reporting by employers of COVID-19 outbreaks to local public health agencies and the public posting of this information by the State Department of Public Health.

Senate Floor Amendments of 8/25/22 (1) strike the requirement that employers provide written notice to all employees when there has been an exposure to COVID-19 and instead requires employers to post the information, as specified; (2) require employers to keep a log of these postings and grant the Labor Commissioner access; (3) strike requirements in existing law pertaining to the reporting of COVID-19 outbreaks to local public health agencies and the public

posting of this information by the State Department of Public Health, as specified; and (4) strike and define relevant terms.

ANALYSIS:

Existing law:

1) Provides that, until January 1, 2023, when in the opinion of Cal/OSHA, a place of employment, operation, or process, or any part thereof, exposes workers to the risk of infection with severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) so as to constitute an imminent hazard to employees, the performance of such operation or process, or entry into such place of employment, as the case may be, may be prohibited by the division, and a notice thereof shall be provided to the employer and posted in a conspicuous place at the place of employment. (Labor Code § 6325)

2) Requires an employer that receives a notice of potential exposure to COVID-19 to take a number of actions within one business day of the potential exposure, including, but not limited to:

    a) Provide a written notice to all employees, as specified, who were on the premises at the same worksite as the qualifying individual within the infectious period that they may have been exposed to COVID-19.

    b) Provide a written notice to the exclusive representative, if any, of the employees in a).

    c) Provide all employees who may have been exposed and the exclusive representative, if any, with information regarding COVID-19-related benefits to which the employee may be entitled under applicable federal, state, or local laws. (Labor Code §6409.6)

3) Requires employers who are notified of the number of COVID-19 cases that meet the definition of an outbreak, as defined, to notify the local public health agency in the jurisdiction of the worksite of the names, number, occupation, and worksite of the employees, as specified. (Labor Code §6409.6)

4) Requires the California Department of Public Health, until January 1, 2023, to make workplace industry information received from local public health departments pursuant to employer COVID-19 reporting requirements on its internet website in a manner that allows the public to track the number and frequency of COVID-19 outbreaks and the number of COVID-19 cases and outbreaks by industry reported by any workplace. (Labor Code §6409.6)

This bill:

1) Extends to January 1, 2024, the sunset date for COVID-19 related workplace reporting requirements and for Cal/OSHA's authority to disable an operation or process at a place of employment when the risk of COVID-19 infection creates an imminent hazard.

2) Strikes provisions in existing law that require employers to notify employees in writing when they have been exposed to COVID-19 and instead requires employers to prominently display a notice (in each worksite) in all places where notices to employees concerning workplace rules or regulations are customarily posted stating all of the following:

    a) The dates on which an employee, or employee of a subcontracted employer, with a confirmed case of COVID-19 was on the worksite premises within the infectious period.
    b) The location of the exposures, including the department, floor, building, or other area, but the location need not be so specific as to allow individual workers to be identified.
    c) Contact information for employees to receive information regarding COVID-19 related benefits, per existing law.

3) Requires that the notice described above be posted within one business day from when the employer receives a notice of potential exposure, remain posted for not less than 15 calendar days, and requires that it be in English and the language understood by the majority of employees.

4) Authorizes employers to satisfy this posting requirement by posting the notice in existing employee portals where the employer posts other workplace notices.

5) Authorizes employers, as an alternative to the worksite posting, to provide written notice to all employees, and the employers of subcontracted employees, who were on the premises of their potential exposure in a manner the employer normally uses to communicate employment-related information including, but is not limited to, personal service, email or text message, as specified.

6) Requires employers to keep a log of all the dates the required notice was posted at each worksite of the employer, and shall allow the Labor Commissioner access to these records, per existing law.

7) Limits the required employer notification to the exclusive representative of an employee, if any, to only notifying them of confirmed cases of COVID-19.

8) Strikes existing law references to and definition for "qualifying individuals" and specifies that the exposure notification and other employer requirements apply to confirmed cases of COVID-19.

9) Strikes the current definition of "close contact" and instead defines it as an individual who has been in close contact with a confirmed case of COVID-19, as defined by the Division of Occupational Safety and Health.

10) Provides a definition for "confirmed case of COVID-19," as specified, strikes the term "high-risk exposure period," and modifies the definition of "notice of potential exposure" to be consistent with the focus on confirmed cases of COVID-19.

11) Strikes the requirement in existing law that an employer (and relevant exemptions) notify the local public health agency in the jurisdiction of the worksite when they are notified of the number of cases that meet the definition of a COVID-19 outbreak, as defined.

12) Strikes provisions in existing law requiring the State Department of Public Health to make workplace industry information received from local public health department available on its internet website in a manner that allows the public to track the number and frequency of COVID-19 outbreaks and the number of COVID-19 cases and outbreaks by industry, as specified.

Background

In 2020, AB 685 (Reyes, Chapter 84, Statutes of 2020) was enacted to provide guidelines and requirements around workplace COVID-19 exposure reporting. AB 685 sought to improve our understanding of the disease's transmission and prevalence in the workplace. The bill required employers to provide specified notices to employees and others if an employee is exposed to COVID-19. It was also a response to documented underreporting of COVID-19 cases across many industries. With Cal/OSHA relying on employers to self-report workplace infections, this led to incomplete data about COVID-19 outbreaks putting workers and ultimately their families at risk. AB 685 provided a mechanism for the Department of Public Health to collect and publish COVID-19 outbreaks by workplace industry.

In 2021, AB 654 (Reyes, Chapter 522, Statutes of 2021), among other things, clarified provisions enacted under AB 685 and added a January 1, 2023 sunset date on the COVID-19 notice of exposure provisions.

Comments

Need for this bill? According to the author, "We have seen just how rapidly COVID-19 infections spread in California's workplaces and how workers paid the price for these outbreaks with their health and lives. The least we can do to be prepared for future variants and as we move to an endemic strategy is to continue tracking COVID-19 cases in the workplace. With infections and deaths disproportionately high in the Latino, Black, and Asian Pacific Islander communities, more information about workplace illness and industry clusters can inform policy makers in addressing healthcare disparities and protecting vulnerable workers. We must be prepared to react immediately to future variants of COVID-19. This bill will aid in stopping the spread of future variants and informing workers of workplace exposures so they can protect themselves and their families by extending the sunset on workplace reporting and notification of COVID-19 cases."

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

SUPPORT: (Verified 8/26/22)

American Federation of State, County and Municipal Employees
Brotherhood of Locomotive Engineers & Trainmen, CA State Legislative Board
California Conference of Machinists
California Conference of the Amalgamated Transit Union
California Food & Farming Network
California IATSE Council
California Labor Federation, ALF-CIO
California Professional Firefighters
California Rural Legal Assistance Foundation
California School Employees Association
California State Legislative Board, SMART Transportation Division
California Teachers Association
California Teamsters Public Affairs Council
Central California Environmental Justice Network
Central Coast Alliance United for a Sustainable Economy
Centro Binacional de Desarrollo Indigena Oaxaqueno
Engineers and Scientists of CA, IFPTE Local 20
ILWU Warehouse, Processing & Distribution Workers' Union, Local 26

Legal Aid at Work
Los Angeles Alliance for a New Economy
National Union of Healthcare Workers
Pesticide Action Network North America
SEIU California
United Food and Commercial Workers, Western States Council
United Nurses Associations of California/Union of Health Care Professionals
United Public Employees
UNITE-HERE
Utility Workers Union of America, AFL-CIO
Warehouse Worker Resource Center

OPPOSITION: (Verified 8/26/22)

Acclamation Insurance Management Services
Allied Managed Care
California Association of Health Services at Home
California Business Roundtable
California Cable & Telecommunications Association
California Landscape Contractors Association
California League of Food Producers
California Manufacturers & Technology Association
California Railroads
California Trucking Association
Coalition of Small and Disabled Veteran Businesses
Construction Employers' Association
Flasher Barricade Association
Folsom Chamber of Commerce
National Federation of Independent Business
Oceanside Chamber of Commerce
Public Risk, Innovation, Solutions and Management
Urban Counties of California
Wine Institute

ARGUMENTS IN SUPPORT: According to the United Food and Commercial Workers, Western States Council, "California is moving towards a new phase in the COVID-19 fight that places testing, vaccination and support front and center. AB 685's (Reyes, 2020) tracking gives the state key data so we can focus our resources efficiently and effectively. AB 2693 will ensure these protections are kept in place as COVID-19 sadly continues to ravage our state. The next COVID-19 variant can show up any time and we can't wait for the legislature to act or go

through the legislative process every time a new variant arises. We must be prepared to react immediately to stop the spread, and extending the sunset on workplace tracking of COVID-19 cases is critical to doing that."

ARGUMENTS IN OPPOSITION: A coalition of employers are opposed and write, "Thankfully, we are in a different world from the one where these notice requirements were put into place. The vast majority of people in California are vaccinated – and those who are not mostly remain that way by choice. Test availability has improved considerably. Case rates are low – despite the economy re-opening and in-person schooling recommencing. They conclude by stating that, "To be clear: we do not oppose notification of close contacts. However, workplace-wide notices no longer serve the purposes they did early in the pandemic. A COVID-19 case is no longer the same risk it once was due to increased vaccination and immunity in the population. Extending emergency-level notice until 2025 just doesn't make sense."

ASSEMBLY FLOOR: 47-20, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cooley, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Mia Bonta, Cooper, Daly, Gray, Mayes, O'Donnell, Quirk-Silva, Ramos, Blanca Rubio, Villapudua

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
8/26/22 15:47:52

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

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THIRD READING

Bill No: AB 2697
Author: Aguiar-Curry (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 8-1, 6/29/22
AYES: Pan, Eggman, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NOES: Melendez
NO VOTE RECORDED: Gonzalez, Grove

SENATE APPROPRIATIONS COMMITTEE: 5-1, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Jones
NO VOTE RECORDED: Bates

ASSEMBLY FLOOR: 59-12, 5/25/22 - See last page for vote

SUBJECT: Medi-Cal: community health worker services

SOURCE: California Pan-Ethnic Health Network
Latino Coalition for a Healthy California

DIGEST: This bill codifies the requirement that community health worker (CHW) services be a covered Medi-Cal benefit. Requires Medi-Cal managed care (MCMC) plans to engage in outreach and education efforts to enrollees, as determined by the Department of Health Care Services (DHCS), that would Includes specified information to enrollees on what the CHW services are and how to find a CHW. Requires DHCS to inform stakeholders about, and accept input from stakeholders on, implementation of the CHW services benefit.

Senate Floor Amendments of 8/25/22 avoid duplication with language relating to CHWs passed in this year's health trailer bill SB 184 (Committee on Budget and Fiscal Review, Chapter 47, Statutes of 2022) as well as incorporate technical assistance from the Department of Health Care Services (DHCS) that would give DHCS more flexibility in implementation. The amendments also remove

requirements for an evaluation of the implementation of the CHW benefit and pare down provisions requiring that Medi-Cal providers be notified of the CHW benefit.

ANALYSIS: Existing federal law authorizes federal financial participation in the Medicaid program for diagnostic, screening, preventive, and rehabilitative services, including any clinical preventive services that are assigned a grade A or B by the United States Preventive Services Task Force and any medical or remedial services (provided in a facility, a home, or other setting) recommended by a physician or other licensed practitioner of the healing arts within the scope of their practice under state law. [42 U.S.C. §1396d]

Existing state law:

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

2) Establishes a schedule of benefits under the Medi-Cal program, which includes benefits required under federal law and benefits provided at state option but for which federal financial participation is available. [WIC §14132]

3) Defines CHW as means a liaison, link, or intermediary between health and social services and the community to facilitate access to services and to improve the access and cultural competence of service delivery. States that CHWs include Promotores, Promotores de Salud, Community Health Representatives, navigators, and other nonlicensed health workers, including violence prevention professionals. Requires a CHWs lived experience to align with and provide a connection to the community being served. [WIC § 18998]

4) Requires DHCS to develop statewide requirements for CHW certificate programs in consultation with stakeholders. [WIC § 18998.1]

5) Authorizes DHCS to collect workforce data on CHWs from individuals who have enrolled in or completed CHW certificate programs. [WIC § 18998.3]

This bill:

1) Codifies CHW services as a Medi-Cal covered benefit. Defines CHW as in existing state law.

2) Requires MCMC plans to develop outreach and education efforts to notify their enrollees about the CHW/P benefit that meets cultural and linguistic appropriateness standards, as set forth by DHCS. At a minimum, MCMC plans shall provide the following information to enrollees:

a) A description of the CHW/P benefit including eligibility and coverage criteria;

b) A list of providers that are authorized to refer individuals to CHW/P services, and an explanation of how to request a referral;

c) A list of contracted CHW/P entities, including community-based organizations, clinics, local health jurisdictions, licensed providers, or hospitals available to provide these services, updated at least annually; and,

d) An email address, internet website, and telephone number for enrollees to call to request additional information.

3) Requires MCMC plans to notify providers about the CHW services benefit, in the manner required by DHCS.

4) Requires DHCS to inform stakeholders about, and accept input from stakeholders on, implementation of the CHW services benefit through existing and regular stakeholder processes.

5) Conditions implementation of this bill on receipt of federal approval and federal financial participation.

6) Authorizes DHCS to implement this bill via policy letters or similar without taking further regulatory action.

7) Makes legislative findings that CHW/Ps are critically important in informing communities of color, persons of limited English proficiency, and immigrants about services to prevent disease, disability, and other health conditions or their progression, prolong life, and promote physical and behavioral health and efficiency, and are crucial to providing access to safety net services that are available to communities with the goal of reducing health disparities and improving health outcomes. Also states that CHW/Ps are trusted members of their communities who have personal experience with a health condition, lived experience, and shared language and cultural background, and who help to address chronic conditions, preventive health care needs, and health-related social needs within their communities.

Comments

1) *Author's statement.* According to the author, because both CHWs and promotores usually share ethnicity, language, socioeconomic status, and life

experiences with the community members they serve, it is vital we that continue to provide them with the proper tools and reimbursements. Additionally, since they typically reside in the community they serve, they have the unique ability to bring information where it is needed most, specifically to where patients live, eat, play, work, and worship. This bill will address California's shortage of healthcare workers and growing health needs and disparities for the state's communities of color by supporting the CHW benefit, an equity driven strategy in Medi-Cal.

2) *Federal preventive services rule change.* The ACA changed federal Medicaid law to encourage the provision of preventive care in several respects. One of those changes allows preventive services to be provided by non-licensed individuals under the supervision of a licensed health care provider. Previously, Medicaid regulations limited coverage of preventive services to services that were directly provided by physician or other licensed practitioner. As of January 2014, Medicaid may reimburse for preventive services delivered by a non-licensed health care professional, such as a community health worker, when the service is recommended by a physician or other licensed provider within their scope of practice under state law. The rule change did not make changes to what services may be provided. The services must still be medical or remedial in nature; involve direct patient care; and, be for the express purpose of diagnosing, treating, or preventing illness, injury, or other impairments to an individual's physical or mental health.

3) *Addition of CHWs as a Medi-Cal benefit.* The 2021-2022 Budget Act added CHWs to the class of skilled and trained individuals who are able to provide clinically appropriate Medi-Cal covered benefits and services using the federal preventive services option. CHWs were not initially added to the existing statutory list of Medi-Cal benefits and providers, but were added administratively with funding through the Medi-Cal budget. The CHW benefit was originally set for January 1, 2022 but was delayed until July 1, 2022.

   SB 184 (Committee on Budget and Fiscal Review, Chapter 47, Statutes of 2022) provided additional detail on the definition, requirements, and training of CHWs. CHWs are defined a liaison, link, or intermediary between health and social services and the community to facilitate access to services and to improve the access and cultural competence of service delivery. A CHW is a frontline health worker either trusted by, or who has a close understanding of, the community served. SB 184 outlines the process by which DHCS will create a certification program for CHWs and organizations can provide certification training.

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

According to the Senate Appropriations Committee, an unknown General Fund impact to Medi-Cal health care expenditures, likely not significant, since funding for CHW services is included in the Medi-Cal budget.

SUPPORT: (Verified 8/11/22)

California Pan-Ethnic Health Network (co-source)
Latino Coalition for a Healthy California (co-source)
Abrazar, Inc.
Access Reproductive Justice
American Diabetes Association
API Equality
Asian Americans for Community Involvement
Asian Pacific Community Counseling
Asian Pacific Partners for Empowerment, Advocacy and Leadership
Asian Resources, Inc.
Be Smooth
California Alliance of Child and Family Services
California Association of Public Hospitals and Health Systems
California Black Health Network
California Council of Community Behavioral Health Agencies
California Coverage and Health Initiatives
California Dental Association
California Health+ Advocates
California Immigrant Policy Center
California Latinas for Reproductive Justice
California Pan-Ethnic Health Network
California Rural Legal Assistance Foundation
California School-Based Health Alliance
California WIC Association
Cambodian Family Community Center
Canal Alliance
Central Valley Immigrant Collaborative
Central Valley Immigrant Integration Collaborative
Centro Binacional para el Desarrollo Indígena Oaxaqueño
Centro La Familia Advocacy Services
Children Now
Chinatown Service Center
Clinica Monseñor Oscar A. Romero

Communities United for Restorative Youth Justice
Community Action to Fight Asthma
Community Health Councils
CORE Medical Clinic
Cynthia Perry Ray Foundation
Depression and Bipolar Support Alliance
El Sol Neighborhood Educational Center
Empowering Pacific Islander Communities
End Hep C SF
Esperanza Community Housing Corporation
Fresno Center
Health Access California
Health Net
Hispanas Organized for Political Equality
Hmong Cultural Center of Butte County
Institute for Behavioral and Community Health
Justice in Aging
Kedren Health
Korean American Coalition – Los Angeles
Korean Community Center of the East Bay
Latino Coalition for a Healthy California
Law Foundation of Silicon Valley
Loma Linda University Health
Los Angeles Children's Trust for Children's Health
Los Angeles Unified School District
Maternal and Child Health Access
Mi Familia Vota
Mixteco Indigena Community Organizing Project
National Health Law Program
Pilipino Workers Center of Southern California
Public Health Advocates
Regional Pacific Islander Taskforce
San Francisco Community Clinic Consortium
South Asian Network
Southeast Asia Resource Action Center
Steinberg Institute
Strategic Concepts in Organizing and Policy Education
Street Level Health Project
Thai Community Development Center
The Children's Partnership

United Ways of California
Vision y Compromiso
Western Center on Law and Poverty
Women's Foundation California
Worker Education and Resource Center
Youth ALIVE!

OPPOSITION: (Verified 8/11/22)

None received

ARGUMENTS IN SUPPORT: This bill is supported by a broad number of community based organizations, health advocacy organizations, and providers, among others. Co-sponsor California Pan-Ethnic Health Network writes that CHWs are an evidence-based equity driven response to the number of growing health disparities for Black, Indigenous, Communities of Color and other historically excluded groups. CHWs unique connection to the communities they serve have made them effective in supporting the state's COVID-19 response, improving chronic conditions and mental health outcomes, and increasing utilization of both health care and vital social safety net programs, such as housing and nutrition. More recently, California is joining other states in uplifting the critical role CHWs play by investing in statewide models for CHWs services and through proposals that seek to recruit nearly 25,000 CHWs across the state by 2025. Co-sponsor Latino Coalition for a Healthy California writes that the effort to increase access to CHWs is a critical first step and this bill will establish the stable foundation for future undertakings that seek to further the role CHWs play in the lives of everyday Californians. This bill will help to ensure an inclusive, community-driven approach to implementation of this new Medi-Cal benefit.

ASSEMBLY FLOOR: 59-12, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Megan Dahle, Davies, Flora, Fong, Kiley, Mathis, Seyarto, Smith, Voepel

NO VOTE RECORDED: Berman, Gallagher, Lackey, Nguyen, O'Donnell, Patterson, Valladares

Prepared by: Jen Flory / HEALTH / (916) 651-4111
8/26/22 15:47:52

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

SENATE RULES COMMITTEE AB 2700
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2700
Author: McCarty (D), Berman (D) and Medina (D)
Amended: 8/2/22 in Senate
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 10-1, 6/21/22
AYES: Hueso, Becker, Bradford, Dodd, Gonzalez, Hertzberg, McGuire, Min, Rubio, Stern
NOES: Borgeas
NO VOTE RECORDED: Dahle, Eggman, Grove

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-0, 6/29/22
AYES: Allen, McGuire, Skinner, Stern, Wieckowski
NO VOTE RECORDED: Bates, Dahle

SENATE APPROPRIATIONS COMMITTEE: 5-0, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NO VOTE RECORDED: Bates, Jones

ASSEMBLY FLOOR: 58-1, 5/25/22 - See last page for vote

SUBJECT: Transportation electrification: electrical distribution grid upgrades

SOURCE: Natural Resources Defense Council

DIGEST: This bill requires the California Energy Commission (CEC) to gather and report fleet data needed to support utilities' plans for grid reliability and enhanced vehicle electrification. This bill also requires utilities to report how distribution investments made pursuant to this bill support climate goals as part of specified filings with the CEC and California Public Utilities Commission (CPUC).

ANALYSIS:

Existing law:

1) Requires the CPUC to direct investor-owned utilities (IOUs) to file applications for investments to accelerate transportation electrification, reduce reliance on petroleum, and meet certain climate goals. The CPUC may approve or amend applications for transportation electrification investments. IOUs are authorized to recover reasonable costs for approved investments from ratepayers if they are consistent with certain requirements. (Public Utilities Code §740.12(b))

2) Requires the CPUC to review data related to current and future transportation electrification adoption and charging infrastructure prior to allowing an IOU to collect new program costs from ratepayers. (Public Utilities Code §740.12(c))

3) Requires each publicly owned utility (POU) with an annual electrical demand exceeding 700 gigawatt hours to adopt an integrated resources plans (IRP) that helps ensure that the POU will meet climate goals for the electricity sector. An IRP must be updated at least once every five years and must address procurement plans for the following:

   a) Energy efficiency and demand response resources,

   b) Energy storage requirements,

   c) Transportation electrification,

   d) A diversified energy resource procurement portfolio, and

   e) Resource adequacy requirements. (Public Utilities Code §9621)

4) Requires the CPUC to establish EV-grid integration strategies for certain load-serving entities (LSEs). POUs must consider EV-grid integration strategies in their IRPs and community choice aggregators (CCA) must report specified information to the CPUC regarding EV-grid integration activities. (Public Utilities Code §740.16)

5) Requires the CEC to assess whether charging station infrastructure is disproportionately deployed by population density, geographical area, or population income level, including low-, middle-, and high-income levels. To the extent that the CEC finds that charging infrastructure in inequitably distributed, the CEC must target Clean Transportation Program (CTP) funding opportunities to address identified disparities. (Public Resources Code §25231)

6) Requires the CEC to conduct a statewide assessment every two years of EV charging infrastructure needed to support the levels of EV adoption required for the state to meet its goals of putting at least five million zero-emission vehicles (ZEVs) on California roads by 2030, and of reducing emissions of greenhouse gases (GHG) to 40 percent below 1990 levels by 2030. (Public Resources Code §25229)

7) Requires the CEC to adopt an Integrated Energy Policy Report (IEPR) every two years, with updates every other year, to report on specified major energy trends facing the state. Existing law specifies the contents the IEPR must contain, including but not limited to, supply, demand, pricing, reliability, efficiency, and impacts on public health and safety, the economy, resources, and the environment. (Public Resources Code §25300 et. seq.)

This bill:

1) Requires the CEC to annually collect data from state agencies, including the California Air Resources Board (CARB) and the Department of Motor Vehicles (DMV) on the deployment of medium and heavy-duty fleets subject to CARB regulations. This data must include at least the following:

   a) The vehicle or equipment fleet size and fuel type, including battery electric, hybrid, or fuel cell.

   b) The fleet address.

   c) Information that would allow the electrical corporation or POU to estimate the total anticipated charging capacity at each fleet location.

2) Requires the CEC to enter into data sharing agreements as necessary to support the data collection required by this bill.

3) Requires the CEC to share fleet data gathered pursuant to this bill with electrical corporations and POUs to help inform electrical grid planning efforts.

4) Prohibits utilities from disclosing confidential customer data as part of this bill's data sharing requirements.

5) Specifies that the CEC's data collection under this bill is not intended to create any new or duplicate reporting requirements for fleet operators.

6) Requires each electrical corporation and POU to consider the fleet data provided by the CEC during their distribution planning processes to support the

level of electric vehicle charging anticipated in their respective service territories.

7) Requires electrical corporations to identify how investments made pursuant to this bill support specified climate and EV deployment goals as part of their general rate cases.

8) Requires POUs to identify how investments made pursuant to this bill support specified climate and EV deployment goals as part of their integrated resource plans.

Background

Recent policies have accelerated the state's ZEV deployment goals. Prior legislation (AB 2127, Ting, Chapter 365, Statutes of 2018) codified the goal of putting at least five million ZEVs on state roads and reducing GHG emissions to 40 percent below 1990 levels by 2030. In 2018, Executive Order B-48-18 established a goal of installing 200 hydrogen-fueling stations and 250,000 battery-electric vehicle chargers, including 10,000 direct-current fast chargers, by 2025. In 2020, Executive Order N-79-20 established a goal that 100 percent of in-state sales of new passenger cars and trucks will be zero-emission by 2035 and 100 percent of medium- and heavy-duty vehicles in the state will be zero-emission by 2045 where feasible. In response to Executive Order N-79-20, CARB is in the process of adopting the Advanced Clean Fleets rules to establish regulations for medium and heavy-duty zero-emission fleets, encouraging ZEV deployment in the medium and heavy-duty transportation sector.

Bill encourages distribution upgrades to accommodate accelerated transportation electrification. This bill requires the CEC to gather and share information regarding fleets to electric utilities to help utilities plan distribution upgrades to accommodate more EV load demands. Recent assessments show that accelerated EV deployment will require grid upgrades and better charging integration. In addition to codifying ZEV deployment goals, AB 2127 also required the CEC to conduct a biennial assessment of the EV infrastructure needed to meet state EV deployment goals. In its 2021 assessment, the CEC noted that the EV make ready and distribution infrastructure planning for accelerated EV deployment required special attention due to the unpredictable nature of the time and costs required for this infrastructure. The CEC's assessment noted that the deployment of EV fleets under CARB's Advanced Clean Fleets rule may pose specific challenges for distribution infrastructure due to significant electrical load fluctuation from many large vehicles charging at certain times. The CEC's assessment states:

> Moreover, as medium- and heavy-duty electrification progresses (especially with CARB's new Advanced Clean Trucks and Innovative Clean Transit rules), existing make-ready infrastructure may need to serve higher-than-anticipated levels of charging load. Preliminary research suggests that most electric utilities in California have enough capacity in urban areas along the Interstate 5 corridor to support new medium-duty vehicle charging, but many rural areas and most heavy-duty charging stations will require local distribution grid upgrades, often including dedicated substations.

While the CEC may obtain limited data on future fleet EV adoption plans, the CEC already receives data regarding operational EV deployment. The CEC incorporates this data along with other data sources to create projections of EV infrastructure needs in statewide assessments and databases showing geographic-specific needs. The CEC is currently using CTP funds to develop the HEVI-Pro tool with Lawrence Berkeley National Labs (LBNL). The HEVI-Pro tool is intended to help identify charging needs for medium and heavy-duty EV deployment. Both EVI-Pro and HEVI-Pro are data sources that the CEC uses to target EV infrastructure based on vehicle deployment while minimizing impacts to the electrical grid and identifying distribution needs.

Bill requires utilities to specify how investments are linked to goals. IOUs are already making significant transportation electrification investments. As of October 2021, the CPUC authorized over $1.8 billion in ratepayer-funded transportation electrification investments. While the majority of transportation electrification investments may be identified in integrated resource plans (IRPs), distribution investments provide broader benefits. As a result, ratepayer investments from distribution plans are frequently approved as part of IOU general rate cases. This bill requires IOUs to identify how distribution investments made under this bill will support relevant EV deployment and climate policies in their rate case proceedings. Under existing law, POUs also make transportation electrification investments. POUs identify these investments in their IRPs, which are reviewed by the CEC. This bill requires POUs to specify how their investments under this bill will support relevant EV deployment and climate goals during the IRP process. By requiring utilities to specify investments in reports regularly submitted to the CPUC and CEC, this bill ensures that these oversight agencies can track the extent to which investments are adequately supporting state goals and ratepayer needs.

Related/Prior Legislation

SB 676 (Bradford, Chapter 484, Statutes of 2019) required the CPUC to establish EV-grid integration strategies for certain LSEs. The bill also required POUs to consider EV-grid integration strategies in their IRPs and required CCAs to report specified information to the CPUC regarding EV-grid integration activities.

SB 1000 (Lara, Chapter 368, Statutes of 2018) required the CEC to assess whether charging station infrastructure is disproportionately deployed by population density, geographical area, or population income level, including low-, middle-, and high-income levels. The bill also required the CEC to target CTP funds address inequities found by the CEC regarding equitable distribution of EV infrastructure.

AB 2127 (Ting, Chapter 365, Statutes of 2018) required the CEC to conduct a statewide assessment every two years of EV charging infrastructure needed to support the levels of EV adoption required for the state to meet its goals of putting at least five million ZEVs on California roads by 2030, and of reducing GHG emissions to 40 percent below 1990 levels by 2030.

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

According to the Senate Appropriations Committee:

- CARB estimates ongoing costs of $850,500 in 2024-25 and $655,000 annually thereafter (Greenhouse Gas Reduction Fund) to collect and provide specified data.

- CEC estimates ongoing costs of $550,000 annually (Energy Resources Program Account [ERPA] or other fund) to develop and maintain a data system, gather data, and regularly conduct analysis.

- CPUC estimates ongoing costs of about $300,000 annually (ratepayer funds) for data warehousing services. CPUC estimates that costs associated with collaborating with the CEC and CARB on data collection as well as reviewing how the utilities utilize the data in their distribution planning process and in their General Rate Cases would be minor and absorbable.

- To the extent that this bill encourages utilities to make ratepayer-funded distribution investments in infrastructure that otherwise would not have occurred, unknown costs to the state as an electrical utility ratepayer (various funds). The State of California is an electrical customer, purchasing roughly one percent of the state's electricity. As such, the state incurs costs when electricity

rates increase. This bill could possibly result in increased rates from the recovery of any additional costs for distribution infrastructure. Staff notes that if fleet and EV deployment policies do not match actual EV adoption trends, it is possible that this bill could inadvertently lead to higher ratepayer costs without a commensurate ratepayer benefit. .

SUPPORT: (Verified 8/22/22)

Natural Resources Defense Council (source)
350 Sacramento
350 Silicon Valley
AMPLY Power
BlueGreen Alliance
California Electric Transportation Coalition
CALSTART
Coalition for Clean Air
Coalition of California Utility Employees
Electric Vehicle Charging Association
Los Angeles Alliance for a New Economy
Sierra Club California
Southern California Edison
The Greenlining Institute

OPPOSITION: (Verified 8/12/22)

None received

ARGUMENTS IN SUPPORT: According to the author, "California leads the nation in setting and maintaining air quality and emissions standards. However, the transportation sector remains the primary driver of pollution and greenhouse gas (GHG) emissions in the state. Transitioning to zero-emission vehicles (ZEVs) is critical to protect public health and stem the effects of climate change, but it will put new demands on California's electrical grid. AB 2700 is a common-sense step that aligns California's grid planning efforts with the state's ZEV, air quality, and climate goals."

ASSEMBLY FLOOR: 58-1, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra,

Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NOES: Waldron

NO VOTE RECORDED: Berman, Bigelow, Chen, Choi, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mayes, Nguyen, O'Donnell, Patterson, Seyarto, Smith, Valladares, Voepel

Prepared by: Sarah Smith / E., U. & C. / (916) 651-4107
8/22/22 12:18:13

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

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THIRD READING

Bill No: AB 2711
Author: Calderon (D)
Amended: 8/24/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-0, 6/8/22
AYES: Umberg, Borgeas, Durazo, Gonzalez, Hertzberg, Jones, Laird, Wieckowski, Wiener
NO VOTE RECORDED: Caballero, Stern

SENATE HUMAN SERVICES COMMITTEE: 4-0, 6/20/22
AYES: Hurtado, Jones, Cortese, Pan
NO VOTE RECORDED: Kamlager

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 65-0, 5/12/22 (Consent) - See last page for vote

SUBJECT: Juvenile records access

SOURCE: Author

DIGEST: This bill clarifies that the California Department of Social Services (CDSS) can view a juvenile court record without a court order when representing a child in an action to vacate an order of adoption.

Senate Floor Amendments of 8/24/22 change references to a child who is "considered unadoptable" to a child for whom "a plan of adoption is not currently suitable," in response to feedback from CDSS; and incorporate text from SB 1071 (Umberg, 2022) to avoid a chaptering conflict in Welfare and Institutions Code section 827.

ANALYSIS:

Existing law:

1) Authorizes an unmarried minor to be adopted by an adult as provided. (Fam. Code, div. 13, pt. 2, §§ 8600 et seq.)

2) Authorizes an adoptive parent, within five years of the entry of an order of adoption, to file a petition to vacate the order of adoption if the child shows evidence of a developmental disability or mental illness as a result of conditions existing before the adoption but of which the adoptive parent had no knowledge or notice before the entry of the order of adoption, and if the extent of the disability or mental illness is severe enough that the child cannot be relinquished to an adoption agency on the grounds that the child is considered unadoptable. (Fam. Code, § 9100(a), (b).)

3) Requires the clerk of the court in which a petition in 2) was filed to immediately notify CDSS upon the filing the petition, and requires CDSS to file a full report with the court and appear before the court for the purpose of representing the adopted child. (Fam. Code, §§ 9100(c), 9102.)

4) Provides that the court may make an order setting aside the order of adoption pursuant to 2) if the facts set forth in the petition are proved to the satisfaction of the court. (Fam. Code, § 9100(a).)

5) Requires, where an order of adoption is set aside, the court making the order to direct the district attorney, county counsel, and county welfare department to take appropriate action, and authorizes the court to make any order relative to the care, custody, or confinement of the child pending the proceeding as the court sees fit. (Fam. Code, § 9101.)

6) Authorizes a tribal customary adoptive parent, within five years of the issuance of a tribal customary adoption order, to file a petition to vacate the order of adoption if the child shows evidence of a developmental disability or mental illness as a result of conditions existing before the adoption but of which the tribal customary adoptive parent had no knowledge or notice before the entry of the order of adoption, and if the extent of the disability or mental illness is severe enough that the child cannot be relinquished to an adoption agency on the grounds that the child is considered unadoptable. (Welf. & Inst. Code, § 366.26(e)(3).)

7) Requires the clerk to immediately notify CDSS upon the filing of a petition in 6), and requires CDSS to file a full report with the court and appear before the

court for the purpose of representing the adopted child. The court's ruling must take into consideration the best interests of the child. (Welf. & Inst. Code, § 366.26(e)(3).)

8) Provides that the court may make an order setting aside the tribal customary adoption order pursuant to 6) if the facts set forth in the petition are proved to the satisfaction of the court. (Welf. & Inst. Code, § 366.26(e)(3).)

9) Requires, where a final decree of tribal customary adoption has been set aside or vacated, the child to be returned to the custody of the county in which the proceeding for tribal customary adoption was finalized and for the final disposition of the child to be determined in consultation with the child's tribe. (Welf. & Inst. Code, § 366.26(e)(3).)

10) Establishes the juvenile court, which, among other things, has jurisdiction over minors who have been removed from their parents' care and is tasked with securing for such minors custody and care. (Welf. & Inst. Code, § 202.)

11) Requires that the juvenile court's findings in a juvenile case be entered in the form of a written record known as the "juvenile court record." (Welf. & Inst. Code, § 825.)

12) Defines the "juvenile case file" as a petition filed in a juvenile court proceeding, reports of the probation officer, and all other documents filed in that case or made available to the probation officer, judge, referee, or other hearing officer and thereafter retained. (Welf. & Inst. Code, § 827(e).)

13) Provides that, unless a person is authorized to inspect a juvenile case file without a court order, the person seeking access to a juvenile case file must petition the juvenile court for the information. The court must afford due process to all interested parties before releasing a juvenile case file, including notice and an opportunity to file an objection. (Welf. & Inst. Code, § 827(a)(3).)

14) Provides a statutory list of persons and agencies authorized to inspect a juvenile case file without a court order, including CDSS in connection with certain proceedings and duties. (Welf. & Inst. Code, § 827.)

15) Prohibits an agency or a person authorized to receive a juvenile case file from disseminating the file or information relating to its content to persons not authorized to receive the information without prior approval of the presiding judge of the juvenile court, unless it is used in connection with and in the course of a criminal investigation or a proceeding brought to declare a person a

dependent child or ward of the juvenile court. (Welf. & Inst. Code, § 827(a)(4).)

This bill:

1) Replaces, in Welfare and Institutions Code section 9100, the phrase "the child is considered unadoptable" to "a plan of adoption is not currently suitable".

2) Specifies that, when a court clerk notifies CDSS that a petition to vacate an adoption or tribal customary adoption has been filed, CDSS may inspect and copy an adoption case file, including a juvenile case file, for the purpose of completing its duties of filing a report with the court and representing the adopted child.

3) Adds, to the list of entities and individuals authorized to view a juvenile case file, CDSS personnel, for the purpose of carrying out the department's duties under 1).

4) Provides that CDSS personnel may also make copies of a juvenile case file to carry out the department's duties under 1).

5) Includes chaptering-out amendments to avoid a chaptering conflict with SB 1071 (Umberg, 2022).

Comments

Author Comments. AB 2711 clarifies existing law to ensure that the California Department of Social Services is able to carry out their statutorily required duties related to adoption set asides. Even though the Department must participate in the adoption set aside process, they are not explicitly allowed to inspect or copy case files that are needed to fulfill their tasks, which has resulted in some instances of case files not being provided to the Department. This bill removes any ambiguity related to this issue.

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

SUPPORT: (Verified 8/22/22)

None received

OPPOSITION: (Verified 8/22/22)

None received

ASSEMBLY FLOOR: 65-0, 5/12/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Salas, Santiago, Seyarto, Smith, Stone, Ting, Villapudua, Voepel, Waldron, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Boerner Horvath, Cunningham, Davies, Gray, Grayson, Kiley, Lackey, Lee, Quirk-Silva, Rodriguez, Blanca Rubio, Valladares, Ward

Prepared by: Allison Meredith / JUD. / (916) 651-4113
8/26/22 15:47:53

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

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THIRD READING

Bill No: AB 2736
Author: Santiago (D)
Introduced: 2/18/22
Vote: 21

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

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 73-0, 5/25/22 (Consent) - See last page for vote

SUBJECT: Horse racing: Breeders' Cup World Championship

SOURCE: Author

DIGEST: This bill requires specified funds be made available to a thoroughbred racing association hosting the Breeders' Cup World Championship Series (Breeders' Cup), as specified.

ANALYSIS:

Existing law:

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

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

3) Requires, for every year that the Breeders' Cup series in conducted at a race meeting in California, that specified amounts that would have otherwise been

distributed to a purse account be made available to the organization operating the series for the purpose of promoting and supporting the Breeders' Cup.

4) Requires the thoroughbred racing association hosting the Breeders' Cup to enter into a written agreement, in consultation and cooperation with the California Tourism Commission and a specified statewide marketing organization, with the organization that operates the Breeders' Cup regarding the manner in which funds set aside to support and promote the Breeders' Cup are to be expended.

This bill:

1) Requires that specified funds additionally be made available to the thoroughbred racing association hosting the Breeders' Cup as well as the organization operating the series.

2) Deletes existing requirement for participation of a specified statewide marketing organization in an agreement, as specified.

Background

Purpose of the bill. According to the author's office, "existing law requires a thoroughbred racing association hosting the Breeders' Cup to set-aside and make available certain monies generated from the handle on days during which Breeders' Cup races are run in California to promote and support the two-day series, including the payment of purses in Breeders' Cup Championship races. The redirection has proven to be an extreme success to help showcase the prestigious event."

Further, the author's office states that, "this bill would further clarify who the participants shall be in the allocation of the set aside funds to support the Breeders' Cup World Championship when the event is held in California. Specifically, it removes the requirement for participation by the presently defunct statewide marketing organization as to the manner in which the set aside funds are allocated. AB 2736 is intended to help California attract the world's best horses, trainers and owners to participate in the Breeders' Cup World Championships and make California an attractive site for future editions of the richest two-days in horse racing."

The Breeders' Cup World Championship. The Breeders' Cup has established itself as the season-ending championship of Thoroughbred racing. Since the inaugural

races in 1984, the Breeders' Cup has grown from a seven-race, $10 million one-day in purses and awards, to a 14-race, $31 million two-day event which attracts the best horses, trainers, and jockeys from across the globe.
The purses for the races are funded by worldwide nomination fees from the industry's Thoroughbred breeders. In addition, horses are able to earn automatic starting positions into championship races through the Breeders' Cup Challenge, a series of stakes races held around the world. The winning Thoroughbred race horses of these races earn an automatic bid to the Breeders' Cup World Championships.

In 2021, the 38th edition of the Breeders' Cup was held on Friday, November 5, and Saturday, November 6, at the seaside Del Mar racetrack in southern California. The marquee $6 million Breeders' Cup Classic was broadcast in prime time on the East Coast. Last year's event was the second time that Del Mar racetrack was selected to host the event. Total all-sources common-pool handle for the two-day Breeders' Cup World Championships at Del Mar was $182,908,409, a new record for the two-day event. On-track attendance for the two days was 47,089. Due to precautions related to COVID-19, Breeders' Cup and Del Mar reduced ticket capacity for the 2021 event.

The Breeders' Cup World Championships has been staged at 12 different race tracks, including Woodbine Racetrack in Toronto, Canada. The most recent venues have been Santa Anita, Del Mar and Keeneland in Kentucky.

The first ever Breeders' Cup was held at the former Hollywood Park racetrack in 1984 and since then California has played an important role in establishing the Breeders' Cup World Championships as the culmination of the thoroughbred-racing season and the multi-million dollar world renowned event it is today. The two-day event generates significant revenue and tourism for the host state.

The Breeders' Cup Board of Directors directs the affairs of Breeders' Cup Limited, a 501(c)(6) organization. There are 13 Directors on the Breeders' Cup Board. Directors are elected by the Breeders' Cup Members, a body of 48 individuals, 39 of whom are elected by the Breeders' Cup nominators.

Related/Prior Legislation

SB 1403 (Jones, 2022) authorizes a thoroughbred racing association or fair to accept wagers on out-of-country races up to 6:30 p.m., Pacific Standard Time, on the first Saturday in November, as specified. (Pending on the Assembly Floor)

AB 2012 (Aguiar-Curry, 2022) adds the Metro Pace to the list races that a California harness racing association can accept wagers on, as specified. (Pending on the Senate Floor)

AB 2812 (Bigelow, 2022) clarifies that "live" includes "live in-state" races as part of an organization's racing program, as specified. (On the Senate Inactive File)

AB 2969 (Governmental Organization, 2022) exempts the Blue Grass Stakes from the 50-per-day imported race limitation, as specified. (Pending on the Senate Floor)

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

SUPPORT: (Verified 8/1/22)

None received

OPPOSITION: (Verified 8/1/22)

None received

ASSEMBLY FLOOR: 73-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Bloom, Irwin, O'Donnell, Blanca Rubio

Prepared by: Brian Duke / G.O. / (916) 651-1530
8/3/22 14:38:27

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

SENATE RULES COMMITTEE AB 2746
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2746
Author: Friedman (D) and Jones-Sawyer (D), et al.
Amended: 8/22/22 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 13-3, 6/28/22
AYES: Newman, Allen, Archuleta, Becker, Cortese, Dodd, Hertzberg, Limón, McGuire, Min, Rubio, Skinner, Wieckowski
NOES: Bates, Dahle, Wilk
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 50-20, 5/25/22 - See last page for vote

SUBJECT: Driving privilege: suspension

SOURCE: Prosecutors Alliance California

DIGEST: This bill lowers the penalties for driving without a license and removes the ability for a court to suspend a person's driver's license for failure to appear.

Senate Floor Amendments of 8/22/22 (1) remove the delayed implementation for portions of the bill that do not directly impact the Department of Motor Vehicles (DMV), and (2) clarify all failure to appear driver's license suspensions in effect on January 1, 2027, be terminated, and provisions to have DMV remove suspensions from a person's record.

ANALYSIS:

Existing law:

1) Requires a driver's license (DL) to drive on public roads.

2) Makes it a misdemeanor or an infraction to drive without a DL.

3) Makes it an infraction for a driver to fail to provide a DL to a peace officer when stopped while driving.

4) Requires law enforcement to issue a correction violation for failing to have a DL if charged with an infraction.

5) Makes it a crime to willfully fail to appear in court. If the underlying offense was a misdemeanor or an infraction, the failure to appear is a misdemeanor with a six month jail sentence and a potential $300 civil assessment fine.

This bill:

1) Provides that the first and second offense for driving without a license shall be an infraction with a $100 fine unless the person has prior, safety-related suspensions or revocations on their license.

2) Provides that the Department of Motor Vehicles (DMV) shall not suspend a driver's license for a person failing to appear. Maintains suspensions issued prior to January 1, 2027, at which time any suspensions pending will be terminated and removed from a driver's' record.

3) Repeals the requirement for courts to notify DMV of a violation of a written promise to appear or a lawfully granted continuance of their promise to appear in court.

4) Delays implementation for DMV-related provisions until January 1, 2027.

Comments

1) *Purpose*. According to the author, "California law currently allows driving without possession of a license to be punished as a misdemeanor, even though it is a technical violation and not connected to unsafe driving. Meanwhile, driving-related offenses that carry risk of serious harm to others– such as speeding or unsafe lane changes – can be punished only as infractions. This distinction is significant: People convicted of misdemeanors can face jail time and significant fines, while infractions carry only fines and are not criminal convictions. These more serious sanctions are not only disproportionate with the severity of the offense but also fall disproportionately on low-income people."

2) *Overview*. California law defines a misdemeanor as a crime for which the maximum sentence is no more than one year in jail and can carry a fine of up to $1,000. In contrast, an infraction is considered a lesser violation of the law wherein courts cannot impose jail time for an infraction but can impose a fine of up to $250. California also permits some crimes to be charged as a misdemeanor or a felony, or a misdemeanor or an infraction, these crimes are commonly known as "wobblers."

   Under existing law, it is a misdemeanor or an infraction to drive without a license. If the crime is charged as an infraction, the offense carries a $400 ticket. However, law enforcement officers are required to offer a correction violation to individuals if they are charged with an infraction for driving without a license, unless the driver refused to correct the violation. Under a correction violation, an individual can pay $25 and show proof that they have a valid DL.

   This bill specifies that the first two offenses for driving without a license may be charged as an infraction (only) unless the defendant has had a prior lapsed suspension for safety related reasons, including reckless driving, driving under the influence, or vehicular manslaughter. Because this bill allows the first two offenses to be charged as an infraction, the drivers will be eligible for a fix-it ticket of $25, far less than the $400 penalty they may face if they fail to get a driver's license after the offense.

3) *Recommendation of the Committee on Revision of the Penal Code*. In 2020, the Committee on Revision of the Penal Code released its annual report, which included a recommendation to eliminate incarceration and reduce fines for certain traffic offenses, including failure to appear.[1] A person can be convicted of a misdemeanor and incarcerated for driving without a license or driving with a license suspended for failure to pay a fine or appear in court. The Committee noted that these offenses are primarily financial in nature, not connected to unsafe driving. These violations can also result in other consequences, including serving as the basis for arrest or vehicle impounding. The Committee recommended reducing the punishment for the offenses of driving without a license and driving with a license suspended for failure to pay a fine or appear in court from a misdemeanor to an infraction. The Committee also recommended reducing the fines and fees for the offenses as well as eliminating the DMV "points" associated with the offenses.

[1] http://www.clrc.ca.gov/CRPC/Pub/Reports/CRPC_AR2020.pdf

The report shows that the vast majority of all criminal filings in California are traffic cases — more than 81% or 3.6 million filings a year. Annually, almost 260,000 traffic offenses are charged as misdemeanors and the people arrested and jailed for these offenses are disproportionately people of color. Additional data confirms that license suspensions for failure to appear are correlated with high poverty rates and race, with the highest rates of suspensions in poorer neighborhoods with a high percentage of Black and Latinx residents.

According to data provided to the Committee by the DMV, approximately 600,000 people currently have their licenses suspended solely for failure to appear in court. Further, the number of prosecutions for driving without a license and driving on a suspended license is also large. In Los Angeles County, between 2010 and 2019, there were more than 180,000 charges for driving without a license and more than 92,000 charges filed for driving on a license suspended for failure to appear or pay a fine.

AB 2746 lowers the penalties for driving without a license and remove the ability to suspend a person's driver's license for failure to appear in court. Lowering the penalty for these offenses is consistent with other actions taken by the Legislature in recent years. Specifically, the Legislature has repealed the ability to suspend licenses for reasons unrelated to unsafe driving, including unpaid traffic fines, high school truancy, vandalism, and controlled substance or alcohol use unrelated to driving.

Related/Prior Legislation

AB 907 (Santiago, 2021) would have made it a $100 fine with penalty assessments waived for driving without a license and would have eliminated driver's license suspensions for failure to appear if it stemmed from an infraction offense or from a misdemeanor failure to appear charge. The bill was held on suspense in Assembly Appropriations Committee.

SB 485 (Beall, Chapter 505, Statutes of 2019) repealed various DL suspensions for reasons unrelated to unsafe driving, including vandalism, controlled substance of alcohol use, firearm use, soliciting or engaging in prostitution.

AB 2685 (Lackey, Chapter 717, Statutes of 2018) eliminated license suspensions for minors who are found to be habitually truant.

AB 103 (Committee on Budget, Chapter 17, Statutes of 2017) removed the DL suspension for failure to pay a traffic fine.

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

According to the Senate Appropriations Committee:

- DMV indicates that one-time costs to implement this bill by 2027 are not quantifiable at this time because programming will be required on the department's modernized platform, which will not be complete until after the 2025-26 fiscal year. Staff estimates one-time minor to moderate costs, potentially up to the low hundreds of thousands of dollars in 2026-27, to conduct necessary programming to eliminate failure to appear violations in the driver's license/identification card systems. (Motor Vehicle Account)

- The Administrative Office of the Courts (Judicial Council) indicates that court workload costs associated with this bill would be minor and absorbable because it is not expected to materially impact the number of cases for driving without a license. Staff estimates there could be minor court workload cost savings, to the extent there is a reduction in misdemeanor proceedings. (Trial Court Trust Fund)

- Unknown potentially significant loss of penalty fine, fee, and assessment revenue related to lowering the penalties associated with initial and subsequent convictions of driving without a DL. (General Fund, various special funds, local funds)

- The Department of Insurance anticipated minor and absorbable costs in 2026-27 of approximately $25,000 to review and approve any rate plans submitted by insurers to reflect the changes implemented by this bill. (Insurance Fund)

SUPPORT: (Verified 8/18/22)

Prosecutors Alliance California (source)
California for Safety and Justice
California Public Defenders Association
Community Legal Services in East Palo Alto
Ella Baker Center for Human Rights
Initiate Justice
Lawyers' Committee for Civil Rights - San Francisco
Legal Services of Northern California
Los Angeles County District Attorney's Office
Rubicon Programs
Starting Over, Inc.
The Young Women's Freedom Center

Tides Advocacy
Western Center on Law & Poverty

OPPOSITION: (Verified 8/18/22)

None received

ARGUMENTS IN SUPPORT: According to the California Public Defenders Association (CPDA), "the charging and jailing people with license offenses that are unrelated to safe driving, while imposing only fines on many unsafe drivers is unjust. It is a modern-day version of debtors' prison to jail individuals for being financially unable to pay fines. In representing indigent criminal defendants, public defenders are particularly attuned to the inequitable and disproportionate burdens imposed on their clients by the criminal justice system solely based on their poverty. The poor will never experience the advantages that their wealthier brethren enjoy in the halls of justice, but there is no just cause for them to be treated less favorably due to financial constraints beyond their control. AB 2746 will take a much-needed step toward righting that inequity."

ASSEMBLY FLOOR: 50-20, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Nazarian, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Petrie-Norris, Salas, Seyarto, Smith, Valladares, Waldron
NO VOTE RECORDED: Berman, Cooper, Gray, Irwin, Mayes, Muratsuchi, O'Donnell, Voepel

Prepared by: Katie Bonin / TRANS. / (916) 651-4121
8/23/22 13:23:09

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

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THIRD READING

Bill No: AB 2761
Author: McCarty (D)
Amended: 8/24/22 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 6/21/22
AYES: Bradford, Kamlager, Skinner, Wiener
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 48-9, 5/26/22 - See last page for vote

SUBJECT: Deaths while in law enforcement custody: reporting

SOURCE: Author

DIGEST: This bill requires a state or local correctional facility to post specified information on its website within 10 days after the death of a person in custody, and to update that information within 30 days of any change.

Senate Floor Amendments of 8/24/22 give the agency in charge of the correctional facility an additional 10 days to post the information if they are unable to notify the next of kin within 10 days of the death.

ANALYSIS:

Existing law:

1) Establishes a system of state prisons under the jurisdiction of the California Department of Corrections and Rehabilitation (CDCR) (Pen. Code, §2000 et. seq.)

2) Establishes a system of county and city jails under the jurisdiction of the sheriff or chief of police. (Pen. Code, §4000 et. seq.)

3) Provides that in any case in which a person dies while in the custody of any law enforcement agency or while in custody in a local or state correctional facility in this state, the law enforcement agency or the agency in charge of the correctional facility shall report in writing to the Attorney General, within 10 days after the death, all facts in the possession of the law enforcement agency or agency in charge of the correctional facility concerning the death. (Gov. Code, § 12525.)

4) Provides that records by law enforcement reporting deaths in custody to the Attorney General are public records within the meaning of the California Public Records Act and are open to public inspection. (Gov. Code, § 12525.)

5) Requires each law enforcement agency to report to the Department of Justice on a monthly basis a report of all instances when a peace officer employed by that agency is involved in specified incidents, including an incident in which the use of force by a peace officer against a civilian results in serious bodily injury or death. (Gov. Code, § 12525.2, subd. (a)(3).)

This bill:

1) Requires a state or local correctional facility to post the following information on its website within 10 days after the death of a person who died while in custody:

   a) The full name of the agency.

   b) The county in which the death occurred.

   c) The facility in which the death occurred and the location within that facility where the death occurred.

   d) The race, gender, and age of the decedent.

   e) The date on which the death occurred.

   f) The custodial status of the decedent, including, but not limited to, whether the person was awaiting arraignment, awaiting trial, or incarcerated.

   g) The manner and means of death.

2) Provides that if any of the information changes, including, but not limited to, the manner and means of death, the agency shall update the posting within 30 days of the change.

3) Provides that if the agency in charge of the facility seeks to notify the next of kin and is unable to do so within 10 days of the death, the agency shall be given an additional 10 days to make good faith efforts to notify the next of kin before the information must be posted online.

Comments

According to the author, "Recent high-profile killings by police in the USA have prompted calls for government officials to implement laws that will reduce police violence. Lawmakers need accurate data in order to evaluate whether policies effectively address the issue of police violence. However, research has shown that law enforcement-related deaths are undercounted in government data. According to data provided by Public Policy Institute of California, half of deaths by law enforcement officers are misclassified in the California Department of Public Health's system. The absence of accurate and complete information on the number of individuals who die by law enforcement stifles the public trust and the ability to hold law enforcement accountable. […]

The absence of accurate and complete information on the number of people who die in custody and the nature of such deaths stifles policymakers' ability to examine the underlying causes, let alone determine what can be done to lower the incidences. […] A designated field on the death certificate to record when the death occurred while the person was in custody and was precipitated by a law enforcement officer or through officer involvement and timely public notification of deaths will help California's metrics and ensure deaths are more accurately reported and that deaths involving peace officers or those occurring in custody don't continue to go uncounted. This will also improve investigative transparency and community confidence in the medical examinations, as well as help to give more peace to families that have lost loved ones."

Existing law requires law enforcement agencies to report any deaths in custody to the DOJ within 10 days after the death, and specifies that these reports are public records subject to the California Public Records Act. When the details of a death in custody are not readily available during this 10-day time frame, the deaths are listed as "pending investigation," and DOJ requests updates from DOJ twice a year, at which time the case is updated if it has been resolved. Information required

under existing law is readily accessible on the DOJ's OpenJustice Web portal, which currently displays an interactive dashboard representing data on 7,542 deaths collected between 2011 and 2020. According to the website, "these data are utilized to assist in policy development and to inform the public on the nature and volume of death in custody in California."

This bill requires law enforcement agencies with jurisdiction over a state or local correctional facility to post on their websites specified information regarding the death of an individual in custody at such a facility, including the name of the agency, the date and county of death, the name and location of the facility, information about the deceased (race, age, gender) and manner of death, and the custodial status of the decedent. The information must be posted within 10 days of the death, and if there are changes to the information, updates to the posting must be made within 30 days of the change. Opponents argue that this requirement is duplicative of the existing requirement that law enforcement agencies report deaths in custody to the DOJ. However, 10 and 30 day requirements in this bill, and the apparent frequency with which DOJ posts its in-custody death data, this bill would make such data available to the public more quickly than existing law. Additionally, supporters argue that public health organizations developing mortality-based research and policy can more easily access and process death certificate data, presumably through the CA-EDRS system, than data collected by the DOJ.

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

According to the Senate Appropriations Committee:

- Minor and absorbable costs to CDCR to post information about in-custody deaths on its website (General Fund).

- Unknown, potentially reimbursable costs local law enforcement agencies to post specific information about the death of a person in custody to their websites (Local Funds, General Fund). General Fund costs will depend on whether the duties imposed by this bill are considered a state reimbursable mandate by the Commission on State Mandates.

SUPPORT: (Verified 8/24/22)

ACLU California Action
Alameda County Democratic Party
Anti Recidivism Coalition
CalAware

California Academy of Family Physicians
California Attorneys for Criminal Justice
California Black Media
California Faculty Association
California Families United 4 Justice
California Medical Association
California News Publishers Association
California Public Defenders Association
Californians for Safety and Justice
Californians United for a Responsible Budget
Communities United for Restorative Youth Justice
Courage California
Democratic Party of Contra Costa County
Do No Harm Coalition
Ella Baker Center for Human Rights
End Police Violence Collective
Essie Justice Group
Faith in Action East Bay
Fresno Barrios Unidos
Human Impact Partners
Immigrant Legal Resource Center
Initiate Justice
Innocence Project
Legal Services for Prisoners with Children
Los Angeles County District Attorney's Office
National Association of Social Workers, California Chapter
Physicians for Human Rights
Public Health Justice Collective
Secure Justice
Showing Up for Racial Justice
Sister Warrior Freedom Coalition
Stable, Strong and Secure
Starting Over, Inc.
The Young Women's Freedom Center
Women's Foundation of California, Dr. Beatriz Maria Solis Police Institute

OPPOSITION: (Verified 8/24/22)

California State Sheriffs Association
Los Angeles Professional Peace Officers Association

Peace Officers Research Association of California
Public Risk Innovation, Solutions, and Management

ASSEMBLY FLOOR: 48-9, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Choi, Cunningham, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Petrie-Norris, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Santiago, Stone, Ting, Voepel, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Megan Dahle, Fong, Gallagher, Mathis, Patterson, Smith, Waldron
NO VOTE RECORDED: Berman, Cooley, Cooper, Daly, Davies, Flora, Gray, Grayson, Kiley, Lackey, Mayes, Nazarian, Nguyen, O'Donnell, Ramos, Rodriguez, Blanca Rubio, Salas, Seyarto, Valladares, Villapudua

Prepared by: Alex Barnett / PUB. S. /
8/26/22 15:47:54

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

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THIRD READING

Bill No: AB 2773
Author: Holden (D)
Amended: 8/11/22 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 6/21/22
AYES: Bradford, Kamlager, Skinner, Wiener
NO VOTE RECORDED: Ochoa Bogh

SENATE TRANSPORTATION COMMITTEE: 13-3, 6/28/22
AYES: Newman, Allen, Archuleta, Becker, Cortese, Dodd, Hertzberg, Limón, McGuire, Min, Rubio, Skinner, Wieckowski
NOES: Dahle, Melendez, Wilk
NO VOTE RECORDED: Bates

SENATE APPROPRIATIONS COMMITTEE: 5-1, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Jones
NO VOTE RECORDED: Bates

ASSEMBLY FLOOR: 43-22, 5/25/22 - See last page for vote

SUBJECT: Stops: notification by peace officers

SOURCE: Author

DIGEST: This bill requires, effective January 1, 2024, a peace officer making a traffic or pedestrian stop to state the reason for the stop before asking investigatory questions unless the officer reasonably believes that withholding the reason for the stop is necessary to protect life or property from imminent threat; and adds information regarding this requirement to the Department of Motor Vehicles (DMV) Driver's Handbook, and requires local law enforcement agencies to report additional stop information to the Department of Justice (DOJ).

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. (U.S. Const., amend. IV.)

2) Requires DMV to publish a synopsis or summary of the laws regulating the operation of vehicles and the use of highways. This summary is referred to as the California Driver's Handbook (Handbook). (Veh. Code, § 1656.)

3) Requires DMV to include specified information in the handbook, including a section on a person's civil rights during a traffic stop. This section must include information regarding the limitations of a peace officer's authority during a traffic stop and the legal rights of drivers and passengers, including the right to file complaints against a peace officer. (Veh. Code, § 1656.3, subd. (a)(4).)

4) Requires DMV to develop the above section of the Handbook in consultation with the civil rights section of the DOJ, California Highway Patrol (CHP), California Commission on Peace Officer Standards and Training (POST), and civil rights organizations, including community-based organizations. (Veh. Code, § 1656.3, subd. (a)(4).)

5) Provides that the information included in the handbook shall be initially include in the handbook at the earliest opportunity when the handbook is otherwise revised or reprinted, in order to minimize costs. (Veh. Code, § 1656.3, subd. (b).)

6) Requires each state and local agency that employs peace officers to annually report to the Attorney General data on all stops conducted by that agency's peace officers for the preceding calendar year. (Government Code §12525.5(a)(1).)

7) Requires reports on stops submitted to the Attorney General to include, at a minimum, the following information:

   a) The time, date, and location of the stop

   b) The reason for the stop

   c) The result of the stop, such as no action, warning, citation, arrest, etc.

d) If a warning or citation was issued, the warning provided or the violation cited

e) If an arrest was made, the offense charged

f) The perceived race or ethnicity, gender, and approximate age of the person stopped. For motor vehicle stops, this paragraph only applies to the driver unless the officer took actions with regard to the passenger

g) Actions taken by the peace officer, as specified. (Government Code §12525.5(b)(1)-(7).)

8) Provides that law enforcement agencies shall not report personal identifying information of the individuals stopped to the Attorney General, and that all other information in the reports, except for unique identifying information of the officer involved, shall be available to the public. (Government Code §12525.5(d).)

9) Defines "stop," for the purposes of reports sent by law enforcement agencies to the Attorney General, as 'any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person's body or property in the person's possession or control.' (Government Code §12525.5(g)(2).)

10) Finds and declares that pedestrians, users of public transportation, and vehicular occupants who have been stopped, searched, interrogated, and subjected to a property seizure by a peace officer for no reason other than the color of their skin, national origin, religion, gender identity or expression, housing status, sexual orientation, or mental or physical disability are the victims of discriminatory practices (Penal Code §13519.4(d)(4).)

11) Prohibits a peace officer from engaging in racial or identity profiling, as defined. (Penal Code §13519.4(e),(f).)

12) Creates the Racial and Identity Profiling Advisory Board (RIPA), which, among other duties, is required to conduct and consult available, evidence-based research on intentional and implicit biases, and law enforcement stop, search, and seizure tactics. (Penal Code §13519.4(j)(3)(D).)

This bill:

1) Requires a peace officer making a traffic or pedestrian stop, before engaging in questioning related to a criminal investigation or traffic violation, to state the

reason for the stop, unless the officer reasonably believes that withholding the reason for the stop is necessary to protect life or property from imminent threat.

2) Requires the officer to document the reason for the stop on any citation or police report resulting from the stop.

3) Requires that the DMV Driver's Handbook include information regarding the requirement above.

4) Requires local law enforcement agency, in their reports to DOJ regarding stops, to include information regarding the reason given to the person stopped at the time of the stop.

5) Specifies that its provisions do not become operative until January 1, 2024.

Comments

According to the author, "to promote equity and accountability in communities across California — that is my goal. AB 2773 brings transparency to service of protecting our public."

The Fourth Amendment of the United States Constitution provides in part 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." The United States Supreme Court has held that temporary detention of individuals during the stop of an automobile by the police, even if only for a brief period and for a limited purpose, constitutes a 'seizure' of persons within the meaning of this provision. In *Whren v. United States*, decided in 1996, the Court further held that "the temporary detention of a motorist upon probable cause to believe that he has violated the traffic laws does not violate the Fourth Amendment's prohibition against unreasonable seizures, even if a reasonable officer would not have stopped the motorist absent some additional law enforcement objective." The Court's decision in *Whren* has given rise to what have been dubbed "pretext stops," a practice in which a law enforcement officer uses a minor traffic violation as a pretext to stop a vehicle in order to investigate other possible crimes. Given the litany of possible traffic violations, especially in California, the use of pretext stops as an investigative tool has become widespread since the decision in *Whren.*

As use of pretext stops has increased, so too has criticism of the practice. Many argue that pretext stops are a driver of racial bias in law enforcement (discussed further below), while others claim that they subvert the spirit, if not the letter, of the Fourth Amendment by giving officers carte blanche to stop a vehicle. Critics

also point to the difficulty in contesting a pretext stop in court. That is, if an officer stops a driver based on an observed traffic violation – of which there are dozens – the driver bears the burden of producing evidence to refute the officer's testimony, that, for instance, the license plate was obscured or a taillight was not properly illuminated on a specific date and time. All of these issues, critics argue, lead to disparate outcomes, primarily based on race, and undermine police legitimacy in the eyes of the communities they serve.

In 2020, the Stanford Open Policing Project published an analysis of almost 100 million police traffic stops conducted between 2011 and 2017 by 21 state patrol agencies (including the California Highway Patrol) and 29 municipal police departments nationwide. One of the study's central findings was that "police stopped and searched black and Hispanic drivers on the basis of less evidence used in stopping white drivers, who are searched less but are more likely to be found with illegal items." Moreover, these stops based on routine traffic violations often turn violent. A 2021 New York Times investigation found that in the preceding 5 years, police officers killed at least more than 400 unarmed drivers and passengers who were not under pursuit for a violent crime, while about 60 officers died at the hands of motorists who had been pulled over.

In 2015, the Legislature passed AB 953 (Weber, Chapter 466, Statutes of 2015), also known as the Racial and Identity Profiling Act of 2015, which expressly prohibited racial and identity profiling by law enforcement and requires law enforcement agencies to report stop data to the DOJ. RIPA guidelines define a "stop" as **"**any detention by a peace officer of a person or any peace officer interaction with a person in which the officer conducts a search. This data includes both pedestrian and vehicle stops."

RIPA stop data for 2020 showed that the most commonly reported reason for a stop (86.1%) across all racial/ethnic groups was a traffic violation, and that individuals perceived as Black or Hispanic comprised 60% of the stops reported, while just under 32% of the stops involved individuals perceived as White. The 2020 data also reflected a continuation of the previous year's trends as well as a finding that "officers searched, detained on the curb or in a patrol car, handcuffed, and removed from vehicles more individuals perceived as Black than individuals perceived as White, even though they stopped more than double the number of individuals perceived as White than individuals perceived as Black."

In light of the racial disparities in police stops and in an effort to improve police accountability with regard to stops, the Author seeks to enact a requirement that officers communicate the reason for their stop before engaging in investigatory

questioning and document the reason for the stop in their citation or police report. However, a police officer may withhold the reason for the stop if they reasonably believe that it is necessary to protect life or property from imminent threat. This bill also provides that information regarding this requirement must be included in the DMV's Driver's Handbook.

A separate provision of this bill deals with the existing requirement that local law enforcement agencies submit annual reports to DOJ regarding traffic and pedestrian stops, including specified information. This bill requires law enforcement agencies to additionally include, for each stop reported, the reason given to the person stopped at the time of the stop.

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

According to the Senate Appropriations Committee:

- *CHP:* The CHP reports costs of approximately $160,000 for information technology changes that would required to collect and report additional "stop data" information to DOJ (Special Fund – Motor Vehicle Account).

- *DOJ:* The DOJ reports costs of $43,000 in 2022-23 for consulting services for application development and to assist with analysis and design, database modification, web application development, web services development, deployment and follow-up (General Fund).

- *DMV:* Staff notes likely minor and absorbable costs to the DMV to update the Driver's Handbook (Special Fund – Motor Vehicle Account).

- *Local Reimbursements:* Unknown, potentially significant costs for all 608 state and local agencies employing peace officers to update policies regarding pedestrian and traffic stops and provide the training necessary to comply with the reporting requirements of AB 2773 (Local Funds, General Fund). Costs to the General Fund will depend predominantly on whether the duties imposed by this bill constitute a reimbursable state mandate, as determined by the Commission on State Mandates.

SUPPORT: (Verified 8/11/22)

ACLU California Action
California Federation of Teachers
California Public Defenders Association
City of Alameda
Initiate Justice

National Association of Social Workers, California Chapter
Oakland Privacy
Sister Warriors Freedom Coalition
The Young Women's Freedom Center

OPPOSITION: (Verified 8/11/22)

California State Sheriffs' Association
Los Angeles Professional Peace Officers Association
Public Risk Innovation, Solutions and Management

ASSEMBLY FLOOR: 43-22, 5/25/22
AYES: Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, McCarty, Medina, Mullin, Nazarian, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Kiley, Lackey, Mathis, Muratsuchi, Nguyen, Patterson, Salas, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Aguiar-Curry, Berman, Cooley, Cooper, Daly, Grayson, Maienschein, Mayes, O'Donnell, Petrie-Norris, Ramos, Rodriguez, Villapudua

Prepared by: Alex Barnett / PUB. S. /
8/15/22 13:01:41

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

SENATE RULES COMMITTEE AB 2774
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THIRD READING

Bill No: AB 2774
Author: Akilah Weber (D), et al.
Amended: 8/11/22 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 6/30/22
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, McGuire, Pan

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 75-0, 5/26/22 - See last page for vote

SUBJECT: Education finance: local control funding formula: supplemental grants: lowest performing pupil subgroup or subgroups

SOURCE: Author

DIGEST: This bill expands the definition of "unduplicated pupil" for Local Control Funding Formula (LCFF) purposes by adding a pupil who is classified as a member of the lowest performing subgroup or subgroups, as defined, commencing with the 2023-24 fiscal year and contingent on an appropriation in the annual Budget Act.

ANALYSIS:

Existing law:

1) Establishes the LCFF in 2013. The LCFF establishes per-pupil funding targets, with adjustments for different student grade levels, and includes supplemental funding for local educational agencies (LEAs) serving unduplicated pupils—students who are low-income, English learners, or foster youth. The LCFF replaced almost all sources of state funding for LEAs, including most categorical programs, with general purpose funding including few spending restrictions.

2) Provides the largest component of the LCFF is a base grant generated by each student. Current law establishes base grant target amounts for the 2013-14 fiscal year, which are increased each year by the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States. The base grant target rates for each grade span for the 2021-22 fiscal year are as follows:

   a) $8,935 for grades K-3 (includes a 10.4 percent adjustment for class size reduction);

   b) $8,215 for grades 4-6;

   c) $8,458 for grades 7-8;

   d) $10,057 for grades 9-12 (includes a 2.6 percent adjustment for career technical education).

3) Provides, for each unduplicated pupil, a district receives a supplemental grant equal to 20 percent of its adjusted base grant. A district serving a student population with more than 55 percent of unduplicated pupils receives concentration grant funding equal to 50 percent of the adjusted base grant for each unduplicated pupil above the 55 percent threshold.

This bill:

1) Requires, for school districts, charter schools, and county offices of education (COEs), the LCFF definition of "unduplicated pupil" to include a pupil who is classified as a member of the lowest performing subgroup or subgroups.

2) Requires the Superintendent of Public Instruction (SPI) to annually identify the lowest performing subgroup or subgroups based on the most recently available mathematics or English language arts results on the California Assessment of Student Performance and Progress (CAASPP).

3) Excludes the following subgroups from being identified pursuant to this calculation:

   a) A subgroup already identified for LCFF supplemental funding (English learners, low-income pupils, and foster youth); and

   b) Any subgroup specifically receiving supplemental funding on a per-pupil basis through state or federal resources received from a source other than LCFF (pupils with disabilities).

4) Provides that a subgroup identified in the 2023–24 fiscal year as a lowest performing subgroup shall continue to receive supplemental funding until its performance meets or exceeds the highest performing subgroup of pupils in the state.

5) Specifies that these provisions are contingent on an appropriation of funds for these purposes in the annual Budget Act or other statute.

Comments

1) *Need for the bill.* According to the author, "2019 statewide testing data shows that African American students are the lowest performing subgroup with 67% not meeting English Language Arts Standards and 79% not meeting Math Standards. The achievement gap for African American students is pervasive whether they are low-income or not. Low-income White students outperform non-low income Black students in math and science.

   "80,000 African American students, or just over a quarter are not receiving additional supplemental funding or accountability through the LCFF. Unfunded African American students are the only subgroup performing below the statewide average on ELA and Math that is not already receiving an LCFF supplement. That is to say that while the entirety of the current subgroups in the unduplicated pupil count receives supplemental funding, only a portion of the lowest-performing subgroup realizes this benefit.

   "A recent UC Berkeley study found that 'schools in districts receiving concentration grants during the initial two years of Local Control Funding did engage in organizational change that parallels gains in pupil achievement, compared with schools in almost identical districts not receiving concentration grants. These benefits were largely experienced by Latino students and not by other groups at significant levels.' (Lee & Fuller 2017, 2) The authors also note that their 'inability to detect gains for Black students is worrisome.' (Lee & Fuller 2017, 24) These early findings suggest that while LCFF supplements may be improving outcomes for Latino students, as intended, a notable gap remains for African American students.

   "AB 2774 would create a new supplemental grant category in the LCFF to include the lowest performing subgroup of students statewide (currently African American students) that is not already receiving supplemental state or federal funding. This would ensure that every student in the lowest-performing subgroup as defined in AB 2774, is generating additional supplemental funding to provide resources to increase their academic performance. AB 2774 would

additionally ensure that local educational agencies (LEAs) including county offices of education, school districts, and charter schools are held accountable to provide additional services and improve academic performance for these students through their Local Control Accountability Plan where the LEA will describe how they plan to assist these high needs students in order to elevate their performance."

2) *What does this bill do?* This bill adds a pupil who is classified as a member of the lowest performing subgroup, excluding any subgroups that already receive supplemental funding on a per-pupil basis (from the LCFF or other state and federal programs). Based on the bill as currently drafted, the only pupil subgroups not meeting the exclusion are ethnic subgroups.

   The California Department of Education (CDE) reports test scores for the following subgroups:

   a) Black or African American

   b) American Indian or Alaska Native

   c) Asian

   d) Filipino

   e) Hispanic or Latino

   f) Native Hawaiian or Pacific Islander

   g) White

   h) Two or more races

   According to data provided by the California Department of Education (CDE) and the author's office, the lowest-performing ethnic group is Black/African American. Therefore, this bill would add Black/African American pupils to the unduplicated pupil count for LCFF purposes.

3) *The Black-White achievement gap.* Studies show that the Black-White achievement gap has persisted, but changed over time. According to a 2014 Handbook of Research in Education Finance and Policy article, *Patterns and Trends in Racial/Ethnic and Socioeconomic Academic Achievement Gaps*, it narrowed in both reading and math from the early 1970s to the late 1980s, then widened in the early 1990s, but has been narrowing consistently since 1999. Tables 1 and 2 (below) show that the scores of Black/African American pupils

are the lowest among the reported racial subgroups. In addition, even though the Black/African American subgroup includes pupils at all income levels, its scores are below the scores of economically disadvantaged pupils, which suggests that poverty alone does not explain this outcome. According to the 2014 Handbook of Research in Education Finance and Policy article,

"A relatively common question addressed in studies of racial/ethnic achievement gaps (particularly the Black-White gap) is the extent to which the observed gaps can be explained by socioeconomic differences between the groups. [Research shows] that socioeconomic factors explain almost all (85%) of the Black-White math gap, and all of the reading gap at the start of kindergarten.…By the third grade, however, …the same socioeconomic factors account for only about 60 percent of both the math and reading Black-White gaps. This finding suggests that socioeconomic factors explain, in large part, the Black-White differences in cognitive skills at the start of formal schooling, but do not account for the growth of the lack-White gap as children progress through elementary school."

The academic achievement gap has consequences beyond school. According to a 2018 report from the Equality of Opportunity Project at Stanford University, *Race and Economic Opportunity in the United States*, "Black children born to parents in the bottom household income quintile have a 2.5% chance of rising to the top quintile of household income, compared with 10.6% for Whites," and "American Indian and Black children have a much higher rate of *downward* mobility than other groups [emphasis in original]."

4) *Low-Performing Students Block Grant.* The Budget Act of 2018 established the Low-Performing Students Block Grant (LPSBG) as a state education funding initiative with the goal of providing grant funds to LEAs serving pupils identified as low-performing on state English-language arts or mathematics assessments who are not otherwise identified for supplemental grant funding under the LCFF or eligible for special education services as defined in Education Code section 41570(d). For the 2018-19 school year, $300 million in one-time funds was appropriated to establish the block grant, available for expenditure or encumbrance during fiscal years 2018-19, 2019-20, and 2020-21. The final per pupil allocation was $1,998.02.

LEAs were required to use LPSBG funds for evidence-based services that directly supported pupil academic achievement, including professional development activities for certificated staff; instructional materials; and

additional supports for pupils. According to the CDE's legislative report on the LPSBG,

"The CDE reviewed submission data from 10 LEAs that were allocated the largest amount of LPSBG funding. Below is a summary of findings regarding their LPSBG plan implementation, the strategies used, and whether or not those strategies increased the academic performance of the pupils identified.

"LEAs reported on the comprehensiveness of their LPSBG plan and the integration of multiple supports and evidence-based strategies for students and staff. However, once the pandemic began and schools closed, LPSBG plan implementation waned primarily because students became virtual learners, yet most of the planned services and strategies required in-person attendance for both staff and students.

"Even with these challenges and the return to in-person learning in the 2020–21 school year, LEAs reported improvements in culture and climate (increased attendance and a reduction in referrals and suspensions), while others discussed increases in student achievement related to English language arts and mathematics based on LEA local assessment data, reports from computerized programs, and other anecdotal information collected by LEAs. Additionally, LEAs also reported on increased and improved competencies and instructional delivery relating to core subjects and culturally-responsive teaching amongst their staff.

"However, the overarching theme from the submission data was that due to the COVID-19 pandemic and the impact that it had on the implementation of the LPSBG plans, there is little to no comparable assessment data or analyses to truly determine the effectiveness of this block grant on student achievement. Since student eligibility was determined based on the CAASP, comparative data from the 2020–21 school year is not available as the CDE received a waiver from the U.S. Department of Education waiving the requirement to administer the state-wide assessment to all eligible students."

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

According to the Senate Appropriations Committee, this bill would create ongoing Proposition 98 General Fund costs in the mid-hundreds of millions of dollars each year to provide additional LCFF funding for the lowest performing subgroup. There would be additional Proposition 98 General Fund costs in the hundreds of millions of dollars each year to the extent that multiple subgroups qualify for

funding in future years. The bill's provisions would be subject to an appropriation in the annual Budget Act.

SUPPORT: (Verified 8/13/22)

State Superintendent of Public Instruction Tony Thurmond
Alpha Community Education Initiative
Alpha Kappa Alpha Sorority, Inc., Omega Upsilon Omega
Black Parallel School Board
Black Students of California United
BLU Educational Foundation
California Alliance of Child and Family Services
California Charter Schools Association
California Hawaii State Conference of the NAACP
California State Parent Teacher Association
Center for Powerful Public Schools
Children Now
Circle of Life Development Foundation
Diversity in Leadership Institute
Elite Public Schools
Fortune School of Education
Greater Sacramento Urban League
Los Angeles County Office of Education
Los Angeles Urban League
National Action Network
National Coalition of 100 Black Women
Public Advocates Inc.
Rex and Margaret Fortune School of Education
Sacramento County Office of Education
Seneca Family of Agencies
Shepower Leadership Academy
The Education Trust – West
United Way California Capital Region
University of California Student Association
Vista Del Mar Child and Family Services
Willie J Frink College Prep

OPPOSITION: (Verified 8/13/22)

None received

ASSEMBLY FLOOR: 75-0, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, O'Donnell, Villapudua

Prepared by: Ian Johnson / ED. / (916) 651-4105
8/15/22 14:13:49

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2775
Author: Quirk-Silva (D)
Amended: 8/22/22 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 15-0, 6/14/22
AYES: Gonzalez, Bates, Allen, Becker, Cortese, Dahle, Dodd, Limón, McGuire, Melendez, Min, Newman, Skinner, Wieckowski, Wilk
NO VOTE RECORDED: Archuleta, Rubio

SENATE HUMAN SERVICES COMMITTEE: 4-1, 6/27/22
AYES: Hurtado, Cortese, Kamlager, Pan
NOES: Jones

SENATE APPROPRIATIONS COMMITTEE: 6-1, 8/11/22
AYES: Portantino, Bates, Bradford, Laird, McGuire, Wieckowski
NOES: Jones

ASSEMBLY FLOOR: 76-0, 5/25/22 - See last page for vote

SUBJECT: Automobiles and recreational vehicles: registration fees

SOURCE: Author

DIGEST: This bill specifies that a person who verifies they are homeless with the Department of Motor Vehicles (DMV) does not have to pay vehicle registration fees on an automobile or a recreational vehicle (RV).

Senate Floor Amendments of 8/22/22 delay the implementation date of the bill until January 1, 2027.

ANALYSIS:

Existing law:

1) Waives the identification card (ID card) fee for unhoused persons.

2) Prohibits a person from driving, moving, or leaving a vehicle or trailer on a highway or in an off-street parking facility unless it is registered with DMV.

3) Requires that a registration fee of $43 be paid to the DMV for an initial vehicle registration or registration renewal.

4) Adds an additional $3 to the above fee to be deposited in the Alternative and Renewable Fuel and Vehicle Technology Fund and the Enhanced Fleet Modernization Subaccount.

5) Adds an additional $25-$175 Transportation Improvement Fee based on the value of the vehicle.

6) Adds an additional $100 fee for zero emission vehicles 2020 model year or later.

7) Requires an additional registration fee, adjusted annually based on the California Consumer Price Index (CPI), be paid to DMV on behalf of the Department of the California Highway Patrol (CHP) at the time of vehicle registration or renewal.

8) Authorizes the collection of certain other fees and surcharges at the time of vehicle registration or renewal to support a variety of state and local programs.

This bill:

1) Defines recreational vehicle as a motor home, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation for recreational, emergency, or other occupancy that meets specified requirements.

2) Waives the vehicle registration fees on an automobile or RV owned by a person that verifies they are homeless.

3) Defines "homeless person" the same as a homeless person under the federal McKinney-Vento Homeless Assistance Act, which includes the following:

   a) An individual or family who lacks a fixed, regular, and adequate nighttime residence.

   b) An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground; and,

   c) An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including hotels and motels paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, congregate shelters, and transitional housing).

4) Provides that a homeless service provider that has knowledge of the person's housing status may verify the person's status as homeless.

5) Defines a homeless service provider to include a governmental or nonprofit agency receiving government funding to provide homeless services, a public social services provider, a law enforcement officer with certain designations, or any other homeless services provider the DMV determines to have eligibility.

6) Becomes effective on January 1, 2027.

Comments

1) *Purpose*. According to the author, "Our state is facing a severe housing crisis that cannot be solved overnight. People are living on the streets without abode or living in their recreational vehicles, cars, and boats- operational or not, so they can have some shelter from the summer heat or winter cold at night. My bill seeks to provide financial relief for verified homeless people that are using vehicles as their place of residence by exempting them from Department of Motor Vehicle registration fees as many options are needed to help the people facing the brunt of our housing crisis."

2) *Motor Vehicle Account and Vehicle License Fees.* The DMV estimates that the cost to register an automobile or RV in the state of California is $257. Cal Matters estimates that there is roughly 161,000 people experiencing homelessness in California based on the latest tally taken in 2020 before

COVID-19. Based on those numbers, the average loss to the DMV from the registration waiver would be $26 million. The DMV states that they issued 100,000 fee-free IDs to person's experiencing homelessness. The author contends that not all of the persons experiencing homelessness own an automobile or RV. However, Cal Matter estimates that 16,528 of the 161,000 people experiencing homelessness owned an automobile or a RV. This loss would negatively affect the Motor Vehicle Account (MVA), the primary funding source for DMV and the California Highway Patrol, which is already projected to be in deficit in the coming years.

Further, AB 2775 does not exempt a verified person experiencing homelessness from paying the Vehicle License Fee (VLF), a separate fee from the Vehicle Registration Fee which is essentially a property tax that is based on a percentage of the vehicle's value. The DMV estimates that the fee is $93 dollars for an automobile or RV and that they would need to include a regulatory update and an IT update in order to separate the VLF from the registration fees.

3) *Failure to Pay*. Failure to pay those fees can have dire consequences for someone who is unhoused. Under existing law, a vehicle that has expired registration for more than six months can be towed. *Towed into Debt: How Towing Practices in California Punish Poor People*, a 2019 report by various legal services organizations in California, highlighted the potential downstream effects if a vehicle is towed. Recovering a vehicle after it has been towed is expensive. *Towed into Debt* notes that the average tow fee in California is $189, with a $53 storage fee per day and a $150 administrative fee. After three days of storage a towing fee could come out to $499. If someone were unable to pay their vehicle registration fees on time, late fees for vehicle registration increase by 60% of the original fee for payments over 30 days late, which can increase the registration fee as much as $100. If a person is then pulled over for having an unregistered vehicle, the fine for driving unregistered vehicles is currently $285. The vehicle registration fees, late fees, tickets for driving an unregistered vehicle, and the cost of a three day tow could easily cost well over $1000.

   According to *Towed into Debt*, vehicles towed for unpaid registration or unpaid parking tickets are two to six times more likely to be sold at a lien sale than the average towed cars. 50% of the vehicles towed in San Francisco for unpaid parking tickets and 57% of the vehicles towed for lapsed registration were sold

by the tow companies, compared to only 9% of other vehicles that were towed for other reasons.

4) *Vehicles and Homelessness*. For some people experiencing homelessness, their only means of shelter is their vehicle. According to research conducted by the Benioff Homeless and Housing Initiative, there has been a rapid growth of vehicle residency over the last decade, especially during the pandemic. People without permanent homes are now using their cars, vans, RVs, and campers as a form of 'affordable housing' instead of going to shelters or encampments. However, parking restrictions and a lack of infrastructure are challenges. A 2019 Guardian article noted that the City of San Francisco counted 1,794 people living out of their vehicles, a 45 percent increase from 2017. Moreover, Oakland counted 2,817, which was more than double the number counted in 2017, and Los Angeles counted 9,981 cars, vans, RVs and campers acting as shelters for about 16,525 people, which encompassed 28 percent of the county's entire unhoused population.[1]

   Some cities during the pandemic had stopped towing vehicles and citing cars for being parked in the same area for extended time periods. Nevertheless, in recent months, ticketing and towing vehicles has been on the rise again, causing some who are experiencing homelessness to incur fines and fees they cannot afford to pay back. Often vehicles are ticketed and fined because their registration has expired or they have unpaid parking tickets. When their vehicle is towed, essentially the individual's home, and potentially their only place to stay is taken away based on their inability to pay.

5) *Delayed Implementation*. The implementation date of the bill is delayed until January 1, 2027 due to DMV's preference that any new requirements be delayed until after their computer system upgrades are completed. Many other bills establishing new requirements on the DMV have a similar delayed implementation date.

6) *Opposition*. Opponents are concerned about the loss of revenue to the Motor Vehicle Account, which funds the DMV and the California Highway Patrol.

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

[1] https://www.theguardian.com/us-news/2019/aug/05/california-housing-homeless-rv-cars-bay-area

According to the Senate Appropriations Committee:

- The Department of Motor Vehicles (DMV) indicates that one-time costs to implement this bill by 2027 are not quantifiable at this time because programming will be required on the department's modernized platform, which will not be complete until after the 2025-26 fiscal year. Staff estimates one-time costs in 2026-27, potentially in the low hundreds of thousands of dollars, to promulgate regulations, develop new certification forms, and conduct necessary programming on modernized IT systems to account for waiving vehicle registration fees for eligible homeless persons, including changes to allow verification of homeless status remotely through the Virtual Field Office, and to create the new fee waiver codes for tracking and audit purposes. (Motor Vehicle Account)

- Unknown, likely significant annual revenue losses (foregone revenues) beginning in 2026-27 as a result of the reduced collection of vehicle registration fees ($65 basic vehicle registration fees and $29 CHP fee). Actual revenue losses would depend upon the number of homeless persons who own a vehicle that would be subject to the bill's requirements, and are verified as eligible for the fee exemption. Absent reliable data on vehicle ownership among homeless persons who use the vehicle as their residence, these costs are unquantifiable and likely to change from year to year. For illustrative purposes, for every 10,000 persons eligible for a registration fee waiver in a given year, the bill would result in revenue losses of approximately $940,000. (Motor Vehicle Account)

- Ongoing annual DMV administrative costs, primarily for field office time to verify applicant eligibility for vehicle registration fee exemptions, are expected to be minor and absorbable, beginning in 2026-27. (Motor Vehicle Account)

SUPPORT: (Verified 8/23/22)

ACLU California Action
Elder Law and Disability Rights Center
Housing Is a Human Right OC
Los Angeles Homeless Services Authority
Orange County Equality Coalition
People's Budget Orange County
Wiseplace

OPPOSITION: (Verified 8/23/22)

California Association of Highway Patrolmen

ASSEMBLY FLOOR: 76-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Katie Bonin /Randy Chinn / TRANS. / (916) 651-4121
8/23/22 15:13:40

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

SENATE RULES COMMITTEE AB 2778
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2778
Author: McCarty (D)
Amended: 6/21/22 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 6/14/22
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 72-0, 5/23/22 - See last page for vote

SUBJECT: Crimes: race-blind charging

SOURCE: Yolo County District Attorney's Office

DIGEST: This bill requires the Department of Justice (DOJ), beginning on January 1, 2024, to develop and publish "Race-Blind Charging" guidelines, as specified, for all prosecuting agencies to follow in implementing a process to initially review a case for charging based on information from which all means of identifying the race of the suspect, victim, or witness have been removed or redacted.

ANALYSIS:

Existing law:

1) States that all felonies shall be prosecuted by indictment or information, as specified. (Pen. Code, § 737.)

2) States that all misdemeanors and infractions be prosecuted by written complaint under oath. (Pen. Code, § 740.)

3) Prohibits the state from seeking or obtaining a criminal conviction or sentence on the basis of race, ethnicity, or national origin. (Pen. Code, § 745.)

4) Provides that a defendant may establish such violation if any of the following occurred:

   a) The court, an attorney, a law enforcement officer, an expert witness, or a juror involved in the case exhibited bias or animus due to the defendant's race, ethnicity or national origin;

   b) The defendant was charged or convicted of a more serious offense than defendants of other races who committed the same or similar acts, and evidence exists that demonstrates that the prosecution has a pattern of charging or convicting more serious offenses against people who share the defendant's race or ethnicity; and,

   c) A more severe sentence was imposed on the defendant than was imposed on other similarly situated defendants of different races, ethnicities, or national origins. (Pen. Code, § 745.)

5) Authorizes the court, upon a defendant proving racial bias has occurred in a case, to remedy the situation:

   a) Declaring a mistrial, if requested by the defendant;

   b) Empaneling a new jury;

   c) Reducing one or more charges, dismissing an enhancement or special allegation;

   d) Vacating a conviction or sentence and ordering new proceedings; or,

   e) Modifying a sentence. (Pen. Code, § 745, subd. (e).)

This bill:

1) Requires, commencing January 1, 2024, DOJ to develop and publish guidelines for a process called "Race-Blind Charging" which must be adhered to by agencies prosecuting misdemeanors or felonies.

2) Requires any initial review of a case for charging, be based on documents from which all means of identifying the race of the suspect, victim, or witness has been redacted.

3) Requires prosecution agencies, following DOJ's guidelines, to independently develop and execute versions of this redaction and review process with the following general criteria:

a) Beginning January 1, 2025, cases received from law enforcement agencies and suspect criminal history documentation shall be redacted in order to be used for a race-blind initial charging evaluation, which shall precede the ordinary charging evaluation. This redaction may occur in a separate version of the documents and may be done mechanically, by hand performed by personnel not associated with the charging of the case, or by automation with the use of computer programming, so long as the method used reasonably ensures correct redaction. The redaction may be applied to the entire report or to only the "narrative" portion of the report so long as the portion submitted for initial review is sufficient to perform that review and the unredacted portions are not part of the initial charging evaluation;

b) The initial charging evaluation based on redacted information, including redacted reports, criminal histories, and narratives, shall determine whether the case should be charged or not be charged. Individual charges shall not be determined at this initial charging evaluation stage. Other evidence may be considered as part of this initial charging evaluation so long as the other evidence does not reveal redacted facts. The initial charging evaluation shall be performed by a prosecutor who does not have knowledge of the redacted facts for that case;

c) After completion of a race-blind initial charging evaluation, the case shall proceed to a second, complete review for charging using unredacted reports and all available evidence in which the most applicable individual charges and enhancements may be considered and charged in a criminal complaint, or the case may be submitted to a grand jury;

d) Each of the following circumstances shall be documented as part of the case record:

    i) The initial charging evaluation determined that the case not be charged and the second review determined that a charge shall be filed.

    ii) The initial charging evaluation determined that the case shall be charged and the second review determined that no charge be filed.

    iii) The explanation for the charging decision change shall be documented as part of the case record.

e) The explanation for the charging decision change shall be documented as part of the case record;

f) The documented change between the result of the initial charging evaluation and the second review, as well as the explanation for the change, may be released or disclosed, upon request, after sentencing in the case or dismissal of all charges comprising the case, subject to protections of privileged materials as specified or any other applicable law;

g) If a prosecution agency was unable to put a case through a race-blind initial charging evaluation, the reason for that inability shall be documented and retained by the agency. This documentation shall be made available by the agency upon request; and,

h) The county shall collect the data resulting from the race-blind initial charging evaluation process and make the data available for research purposes.

4) Authorizes each prosecution agency to remove or exclude certain classes of crimes or factual circumstances from a race-blind initial charging evaluation and states that this list of exclusions and the reasons for exclusion shall be available upon request to DOJ and members of the public.

5) Specifies that due to increased reliance on victim or witness credibility, the availability of additional defenses, the increased reliance on forensics for the charging decision, or the relevance of racial animus to the charging decision, each of the following crimes may be excluded from a race-blind initial charging evaluation process:

a) Homicides;

b) Hate crimes;

c) Charging arising from a physical confrontation where that confrontation is captured in video as evidence;

d) Domestic violence and sex crimes;

e) Gang crimes;

f) Cases alleging either sexual assault or physical abuse or neglect where the charging decision relies upon either a forensic interview ofa child or interviews of multiple victims or multiple defendants;

g) Cases involving financial crimes, including, but not limited to, violations of elder and dependent adult abuse and embezzlement and other crimes

sounding in fraud consisting of voluminous documentation where the redaction of such documentation is not practicable or is cost-prohibitive due to the volume of redactions;

h) Cases involving public integrity, including, but not limited to, conflict of interest crimes as specified;

i) Cases in which the prosecution agency itself investigated the alleged crime or participated in the precharging investigation of the crime by law enforcement, including, but not limited to, the review of search warrants or advising law enforcement in the course of the investigation; and,

j) Cases in which the prosecution agency initiated the charging and filing of the case by way of a grand jury indictment or where the charges arose from a grand jury investigation.

6) Contains the following legislative findings and declarations:

a) In recent years, the increasing availability of data regarding criminal justice has raised legitimate questions regarding racial disparities in how cases are investigated, charged, and prosecuted. In particular, studies suggest that unknowing or "unconscious" bias may infect many decisions within the criminal justice system, despite what may be the best intentions of the actors involved. (Baughman et al., *Blinding Prosecutors to Defendants' Race: A Policy Proposal to Reduce Unconscious Bias in the Criminal Justice System* (Dec. 2015) Behavioral Science & Policy, 70.)

b) One method to address bias is to "acknowledge its existence and create institutional procedures to prevent bias from influencing important decisions." (*id*. 71) In other contexts, such as science, employment, or academia, the "blinding" of evaluators assists in dispelling concerns of discrimination or bias in decision-making. (*id*. 71-72.)

c) In an effort to increase community confidence in the charging process, and to reduce the potential for unconscious bias, some district attorney offices employ a method whereby reports received from the police are stripped of all data from which the race of the suspect may be determined so that at least the initial charging assessment of the case is done "race blind." The Yolo County District Attorney in partnership with the Stanford Computational Policy Lab in 2021 created and implemented a race-blind charging system built into its case management system for most cases.

Comments

According to the author:

> The Department of Justice determined in 2016 that San Francisco disproportionately prosecutes African-Americans at a higher rate. The city of San Francisco published that between 2008 and 2014, African-Americans made up 6% of the city population, but consisted of 41% of those arrested, 43% of those in jail, and 38% of cases filed by prosecutors in San Francisco. It's evident that cities within California engage in racial bias regarding criminal cases.
>
> The impact that race and other physical characteristics has on the criminal justice process is a violation of the Equal Protection Clause in the Fourteenth Amendment. Additionally, the California Racial Justice Act of 2020 makes it illegal for actors in the criminal justice system to impose a sentence on the basis of race, ethnicity, or national origin. However, by implementing a race blind charging system that prohibits prosecutors from seeing indicators of race and ethnicity, this could eliminate racial bias earlier in the process.
>
> AB 2778 reduces the potential for racial bias and increases community confidence in the charging process by having the Department of Justice develop and issue "Race Blind Charging" guidelines. These guidelines would require prosecutors to implement a process where information related to the race of the suspect, victim or witness is redacted within police reports at the initial charging assessment of the case.

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

According to the Senate Appropriations Committee:

- *DOJ*: The DOJ reports costs of $559,000 in fiscal year (FY) 2022-23, 984,000 in FY 2023-24 and approximately $3 million annually thereafter to the DOJ in additional staff and infrastructure to develop and publish race-blind charging guidelines and implement a process to review cases for charging based on information, from which any means of identifying the race of the suspect, victim or witness have been removed or redacted (General Fund).

- *Local Reimbursements*: Unknown, potentially reimbursable costs, possibly in the millions of dollars annually additional staff and possible third party IT vendor contracts for county district attorney offices to independently develop and execute a process based on the process created by the DOJ to review and

redact certain information about a suspect, witness or victim information reports before charging anyone (Local Funds, General Fund). Costs may also include additional staff and IT infrastructure to collect data from a race-blind charging process and document why a DA office did not use a race-blind charging process in any case. General Fund costs will depend on whether this bill imposes a state-mandated local program as determined by the Commission on State Mandates.

SUPPORT: (Verified 8/11/22)

Yolo County District Attorney's Office (source)
Attorney General Rob Bonta
Cal Voices
California Federation of Teachers
California Nurses Association
Initiate Justice
Kern County Criminal Justice Coalition
National Association of Social Workers, California Chapter

OPPOSITION: (Verified 8/11/22)

San Diegans Against Crime
San Diego Deputy District Attorneys Association

ARGUMENTS IN SUPPORT: According to the Yolo County District Attorney's Office:

> In recent years, the increasing availability of data regarding criminal justice has raised legitimate questions regarding racial disparities in how cases are investigated, charged, and prosecuted. In particular, studies suggest that unknowing or "unconscious" bias may infect many decisions within the criminal justice system, despite what may be the best intentions of the actors involved. (Baughman et al. *Blinding Prosecutors to Defendants' Race: A Policy Proposal to Reduce Unconscious Bias in the Criminal Justice System* (Dec. 2015) Behavioral Science & Policy, 70.) One method to address bias is to "acknowledge its existence and create institutional procedures to prevent bias from influencing important decisions." (*id*. 71) In other contexts, such as science, employment, or academia, the "blinding" of evaluators assists in dispelling concerns of discrimination or bias in decision making. (*id*. 71-72)
>
> In 2021, our office partnered with the Stanford Computational Policy lab to develop a program to find and redact race data from police reports in order

that an initial charging determination could be performed "race blind." We became the first office in the state to incorporate this process into our case management system, which uses the same initial (redacted) and secondary (unredacted) processes to charge our cases, with a few exceptions, e.g., hate crimes. While the road to race blind charging had its challenges, we feel we have now "paved the way" and removed operational obstacles for other offices to do the same.

AB 2778 would help decrease the specter of racial bias in one of its most prominent places in the criminal justice system - the initial charging assessment. By stripping police reports of all race-related data of the suspect, victim, or witness, it reduces the potential for unconscious bias and increases community confidence in the charging process by having the initial charging assessment done "race-blind."

ARGUMENTS IN OPPOSITION: According to the San Diego Deputy District Attorneys Association:

The entire State of California should not be a guinea pig for this pilot-test. Doing so will be costly, as the Assembly Appropriations Committee expects that this bill will cost well over $3,000,000 annually. Moreover, it's not clear that there even exists a problem of unconscious bias influencing prosecutorial charging decisions in this state. When the San Francisco District Attorney's Office pilot-tested a race-blind charging program very similar to the one proposed in this bill, then compared issuing rates of cases against cases that did use race-blind charging, they found "no clear evidence for racial biases in prosecutorial charging decisions." (Alex Chohlas-Wood, et al., (2021) Blind Justice: Algorithmically Masking Race in Charging Decisions, pg. 9.)

Even if unconscious bias in prosecutorial charging decisions does exist, it is unlikely this bill will do anything to ameliorate the problem. For instance, this bill grants an exception to 10 different charging categories where race-blind charging would not be required. These exceptions are so numerous that they practically swallow the rule and greatly reduce any impact this bill would have on its stated purpose. But these exceptions are a necessary acknowledgement by the bill's authors of the many logistical issues created when redacting all information identifying a person's race. Spending well over $3,000,000 annually to ineffectively solve a problem that might not even exist is unsound fiscal policy.

ASSEMBLY FLOOR: 72-0, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Mia Bonta, Kiley, Mayes, O'Donnell, Blanca Rubio

Prepared by: Stella Choe / PUB. S. /
8/13/22 9:32:18

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

SENATE RULES COMMITTEE AB 2780
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2780
Author: Arambula (D)
Amended: 8/22/22 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 4-1, 6/22/22
AYES: Caballero, Durazo, Hertzberg, Wiener
NOES: Nielsen

ASSEMBLY FLOOR: 51-11, 5/12/22 - See last page for vote

SUBJECT: Dissolution of redevelopment agencies: enhanced infrastructure financing districts: City of Selma

SOURCE: City of Selma

DIGEST: This bill allows the City of Selma to form or participate in an enhanced infrastructure financing district (EIFD) if it meets specified conditions.

Senate Floor Amendments of 8/22/22 clarify that the City of Selma must pay specified outstanding payments in full before it can form or participate in an EIFD.

ANALYSIS:

Existing law:

1) Establishes successor agencies to manage the process of unwinding former redevelopment agencies' (RDAs) affairs, and oversight boards to approve successor agency decisions.

2) Allows the Department of Finance (DOF) to review and request reconsideration of an oversight board's decision.

3) Requires the successor agency to submit specified information on its outstanding assets and obligations, also known as a Recognized Obligation Payment Schedule (ROPS).

4) Allows DOF to issue a finding of completion to a successor agency acknowledging their progress towards paying off their obligations provided that its Final ROPS contains specified information.

5) States that successor agencies that did not receive their finding of completion by December 31, 2015, or did not enter into a written installment payment plan with DOF, were to never receive a finding of completion.

6) Creates EIFDs and allows them to finance public capital facilities or other specified projects of communitywide significance that provide significant benefits to the district or the surrounding community with an estimated useful life of 15 years or more.

7) Allows, in addition to construction costs, EIFDs to finance planning and design work, displacement of affordable housing residents, defending the district against protests over their formation, and the ongoing or capitalized costs to maintain the projects the district finances.

8) Provides that an EIFD is governed by a public financing authority (PFA) with three members of each participating taxing entity's legislative body and a minimum of two public members. Member agencies can also appoint an alternate member from their legislative body. If at least three taxing entities participate in the district, upon agreement of all taxing entities participating, the district's governing board can be reduced to one member and one alternate member of each legislative body and a minimum of two public members.

9) Limits a city or county that created an RDA, as defined, from initiating the creation of an EIFD, or participating in the governance or financing of an EIFD, until each of the following has occurred:

   a) The successor agency for the former RDA created by the city or county has received a finding of completion, as specified.

   b) The city or county certifies to DOF and to the PFA that no former RDA assets that are the subject of litigation involving the state, if the city or county, the successor agency, or the designated local authority are a named plaintiff, have been or will be used to benefit any efforts of an EIFD, unless the litigation and all possible appeals have been resolved in a court of law. The city or county shall provide this certification to DOF within 10 days of its legislative body's action to participate in or form an EIFD, as specified.

c) The State Controller's Office (SCO) has completed its review as required by existing law, and the successor agency and entity that created the RDA have complied with all the SCO's findings and orders stemming from the review.

This bill allows the City of Selma to initiate, participate in, government, or finance an EIFD, if the City of Selma, acting as the successor agency to the former Selma Redevelopment Agency, has:

1) Certified to DOF and the PFA that no former RDA assets are the subject of litigation involving the state, where the city or county, or its successor agency, are a named plaintiff, have been or will be used to benefit any efforts of an EIFD, unless the litigation and all possible appeals have been resolved in court. The city must provide this certification to DOF within 10 days of its legislative body's action to participate in, or initiate formation of an EIFD;

2) Complied with all SCO findings and orders stemming from its asset transfer review; and

3) Paid its outstanding July true-up payments in full.

Background

RDA dissolution. One of a successor agency's primary responsibilities is to make payments for the enforceable obligations RDAs entered into. These payments are supported by property tax revenues that would have gone to RDAs, but are instead deposited in a Redevelopment Property Tax Trust Fund (RPTTF). Enforceable obligations include bonds, bond-related payments, some loans, payments required by the federal government, obligations to the state or imposed by state law, payments to RDA employees, judgements or settlements, and other legally binding and enforceable agreements or contracts. Any remaining property tax revenues that exceed these enforceable obligations return to cities, counties, special districts, and school and community college districts to support core services. The amount that these taxing entities receive increases as the successor agency pays off these enforceable obligations. If a successor agency adds additional enforceable obligations, the slower this stream of property tax revenue returns to these taxing entities.

Recognizing that county auditor-controllers were not able to make scheduled payments to affected taxing entities due to the Supreme Court's ruling dissolving RDAs, AB 1484 (Committee on Budget, Chapter 26, Statutes of 2012) required auditor-controllers to make allocations in addition to the payments already scheduled to affected taxing entities, known as the "July true-up." AB 1484

provided certain steps to make these payments, and provided that, if an auditor-controller failed to send the payment demand to the successor agency by July 9, 2012, DOF or an affected taxing entity could file a writ of mandate to compel the auditor-controller to perform that duty, or be subject to specified penalties. If a successor agency failed to make the payment by July 12, 2012, DOF or any affected taxing entity can file for a writ of mandate to compel the successor agency to make the required payment or be subject to specified penalties, which can also be imposed on the city or county that created the RDA.

City of Selma. The City of Selma is located 16 miles southeast of the City of Fresno in Fresno County. Selma incorporated in 1893 and has a population of approximately 24,000 people. The city had an RDA that completed various economic development projects, including developing an industrial park and renovating the city's downtown. On July 9, 2012, the Fresno County auditor-controller sent the City of Selma's successor agency a letter demanding a July true-up payment of $434,938 by July 12, 2012. On August 27, 2012, DOF sent a letter to Selma saying that they reviewed the material it submitted but did not have the authority to reduce the amount the auditor-controller billed. They also stated they did not intend to pursue either the civil penalties or withhold sales and use tax allocations, but did advise the city that not paying the demand amount would result the city not receiving a finding of completion. Additionally, the SCO has not found that Selma has corrected the findings and orders stemming from its review. Since Selma did not meet these conditions, it cannot form or join an EIFD.

Comments

1) *Purpose of the bill.* According to the author, "Barring cities and counties who missed deadlines codified nearly a decade ago from ever forming an enhanced infrastructure financing district, even if they have since dispensed of assets as ordered and no longer have outstanding debts, has had an irreversible punitive impact on some of California's most disadvantaged communities. AB 2780 allows the City of Selma to establish an enhanced infrastructure financing district contingent upon re-engagement in good faith to address outstanding assets, debts, or bonds of redevelopment agencies created by the City. By allowing formation of EIFDs if specific conditions are met, this bill provides the City of Selma with additional tools to fund housing construction, social services centers, and climate resilience projects."

2) *Late bird gets the worm?* RDA dissolution law is explicit that successor agencies who did not receive their Finding of Completion by December 31, 2015, were never to receive one. In August 2012, DOF notified the City of

Selma that failing to remit its July true-up payment would preclude the city from receiving a finding of completion, which meant it would not have the benefits that came along with it. Despite the warning, the City of Selma never made the payment. Importantly, AB 2780 does not grant Selma a finding of completion, and all the benefits that go along with it. Instead, it allows the city to participate in an EIFD without a finding of completion, but only if it meets all the same conditions as the cities that did receive one. The Legislature may wish to consider whether the City of Selma should enjoy the benefit of forming an EIFD given it missed the statutory deadline to receive a finding, pursued litigation against the State, still has not made its July true-up payment (although it has indicated it is willing to do so), has not complied with SCO asset transfer review findings, and the precedent it would set for the remaining eight successor agencies without a finding of completion.

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

SUPPORT: (Verified 8/22/22)

City of Selma (source)
California Association for Local Economic Development
County of Fresno
Fresno Council of Governments

OPPOSITION: (Verified 8/22/22)

Howard Jarvis Taxpayers Association

ASSEMBLY FLOOR: 51-11, 5/12/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Villapudua, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Choi, Megan Dahle, Fong, Gallagher, Mathis, Nguyen, Seyarto, Smith, Voepel, Waldron

NO VOTE RECORDED: Boerner Horvath, Chen, Cunningham, Davies, Flora, Gray, Grayson, Kiley, Lackey, Lee, Patterson, Petrie-Norris, Quirk-Silva, Blanca Rubio, Valladares, Ward

Prepared by: Jonathan Peterson / GOV. & F. / (916) 651-4119
8/23/22 15:13:40

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2784
Author: Ting (D) and Irwin (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-2, 6/22/22
AYES: Allen, Eggman, Gonzalez, Skinner, Stern
NOES: Bates, Dahle

SENATE JUDICIARY COMMITTEE: 8-1, 6/28/22
AYES: Umberg, Cortese, Durazo, Hertzberg, McGuire, Stern, Wieckowski, Wiener
NOES: Jones
NO VOTE RECORDED: Borgeas, Caballero

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 44-19, 5/26/22 - See last page for vote

SUBJECT: Solid waste: thermoform plastic containers: postconsumer thermoform recycled plastic

SOURCE: rPlanet Earth

DIGEST: This bill requires that the total thermoforms sold by a producer in the state to, on average, contain specified minimum amounts of postconsumer recycled plastic per year, ranging from 20 to 30 percent.

Senate Floor Amendments of 8/25/22 align the medical exemption language with SB 54 (Allen, Chapter 75, Statutes of 2022), remove an alternative payment schedule for penalties, and clarify that the Department of Resources Recycling and Recovery (CalRecycle) can adjust penalties once a year based on inflation.

ANALYSIS:

Existing law:

1) Establishes, under the Integrated Waste Management Act of 1989 (IWMA), a state recycling goal of 75% of solid waste generated to be diverted from landfill disposal through source reduction, recycling, and composting. Requires each state agency and each large state facility to divert at least 50% of all solid waste through source reduction, recycling, and composting activities. (PRC §§ 41780.01, 42921, 42924.5)

2) Requires, under the California Beverage Container Recycling and Litter Reduction Act (Bottle Bill):
   a) That each new glass container manufactured in the state contain a minimum of 35% postfilled (recycled food container cullet) glass; (PRC §14549) and
   b) The total number of plastic beverage containers, between January 1, 2022, and December 31, 2024, subject to the CRV for sale in the state to, on average, contain no less than 10 percent postconsumer recycled plastic per year. Increases that amount to 25 percent between January 1, 2025, and December 31, 2029; and 50 percent on and after January 1, 2030. (PRC §14547)

3) Establishes the Rigid Plastic Packaging Container (RPPC) law, which requires that specified plastic containers that are made of plastic, capable of at least one closure, and hold a product sold in California to meet one of the following compliance options (PRC §42310):
   a) Contain a minimum of 25% postconsumer recycled content;
   b) Be source reduced by at least 10%, as specified;
   c) Be routinely reused or refilled at least five times;
   d) Achieve a 45% recycling rate; or,
   e) The product manufacturer consumes sufficient California-recycled content equivalent to achieving a 25% postconsumer recycled content rate.

4) Requires, under SB 54 (Allen, 2022), the Plastic Pollution Prevention and Packaging Producer Responsibility Act, certain single-use packaging and plastic single-use food service ware and would require producers, through a producer responsibility organization, to source reduce plastic covered material, ensure covered material sold, offered for sale, distributed, or imported in or into the state after January 1, 2032, is recyclable or compostable, and ensure that plastic covered material offered for sale, distributed, or imported in or into the state meets specified recycling rates.

This bill:

1) Defines, for the purposes of this bill:
   a) "Producer" as an entity who manufactures a product that is packaged in thermoform plastic containers and who owns or is the exclusive licensee of the brand or trademark under which the product is used in a commercial enterprise, sold, offered for sale, or distributed in the state. "Producer" does not include a person who produces, harvests, and packages an agricultural commodity on the site where the agricultural commodity was grown or raised and purchases less than 100,000 pounds of thermoform plastic containers annually.
   b) "Postconsumer thermoform recycled plastic" as plastic produced from the recovery, separation, collection, and reprocessing of a thermoform container that would otherwise be disposed of or processed as waste after consumer use;
   c) "Thermoform plastic container" as a plastic container such as a clamshell, cup, pod, tub, box, or other similar rigid, non-bottle packaging, formed from sheets of extruded resin and used to package items such as fresh produce, baked goods, nuts, deli items, and nonbottled beverages. It does not include thermoform containers that are:
      i) A lid or seal that does not contain plastic;
      ii) Packaging used for medical products, devices, or prescription drugs, drugs used for animals, infant formula, medical food, or fortified nutritional supplements;
      iii) Intended for return to the manufacturer for reuse;
      iv) Bottles subject to the Bottle Bill;
      v) Compostable in a safe and timely manner;
      vi) Comprised of a resin type that less than one million pounds of which are sold in California annually; or
      vii) Comprised of expanded polystyrene (EPS) if less than 40,000 pounds of EPS are sold in California annually.

2) Allows a recycling center to collect thermoform plastic containers.

3) Requires a producer to report to CalRecycle before March 1 of each year, the amount in pounds and by resin type of virgin and postconsumer thermoform recycled plastic used to manufacture thermoform plastic containers they sold in the state in the previous year.

4) Requires, beginning January 1, 2025, the total thermoform plastic containers offered for sale, distributed, or imported into the state by a producer to contain at least 10 percent post-consumer thermoform recycled plastic per year.

5) Requires, beginning January 1, 2028, the total thermoform plastic containers offered for sale, distributed, or imported into the state by a producer in the state to either:
   a) Contain at least 20 percent postconsumer thermoform recycled plastic per year if the recycling rate for a resin type that constitutes thermoform plastic containers equals or exceeds 50 percent for the calendar year 2026; or
   b) Contain at least 25 percent postconsumer thermoform recycled plastic per year.

6) Requires, beginning July 1, 2030, the total thermoform plastic containers offered for sale, distributed, or imported into the state by a producer in the state to either:
   a) Contain at least 20 percent postconsumer thermoform recycled plastic per year if the recycling rate for a resin type that constitutes thermoform plastic containers equals or exceeds 75 percent for the calendar year 2029; or
   b) Contain at least 30 percent postconsumer thermoform recycled plastic per year.

7) Subjects any producer that does not meet these requirements to an annual administrative penalty, to be collected annually. This penalty shall be equal to 20 cents, or $1 if the resin is EPS, per pound of virgin recycled plastic used by the producer to produce the plastic containers sold in the state.

8) Authorizes CalRecycle to adjust the penalties to account for inflation no more than once a year. Exempts this increase from the Administrative Procedures Act.

9) Allows these administrative penalties to be paid in quarterly installments. CalRecycle may grant a one-time extension, of up to 12 months, due to unforeseen circumstances.

10) Authorizes CalRecycle to conduct audits and investigations and take enforcement action, after giving notice and hearing, against a producer for the purpose of ensuring compliance with these requirements.

11) Requires CalRecycle to consider granting a reduction of the administrative penalties for the purpose of meeting the minimum postconsumer thermoform

recycled plastic requirements in this bill. When considering a reduction of penalties, they must consider:
   a) Anomalous market conditions;
   b) Disruption in, or lack of supply of, recycled plastic due to an unforeseen circumstance or event, such as a natural disaster;
   c) Other factors that have prevented compliance; or
   d) If the recycling rate is 60 percent or higher, lack of available supply due to purchases from outside the packaging industry.

12) Requires, in order to obtain a reduction in administrative fees, a producer to submit to CalRecycle a corrective action plan that details why they have failed to meet the requirement and the steps they will take to comply within the next reporting year.

13) Requires producers, if they fail to meet the requirements of this bill, to submit to CalRecycle a letter of explanation of the reasons they failed to meet the requirements.

14) Authorizes CalRecycle to issue corrective action plans to out-of-compliance producers, which producers will have two years to comply with.

15) Requires administrative penalties be deposited into the Thermoform Recycling Enhancement Penalty Account, which is created by this bill, and permits those moneys to be expended, upon appropriation, for the purpose of supporting the recycling, collection, and processing infrastructure of thermoforms in the state.

16) Requires a producer, under penalty of prejury, to report to CalRecycle and for CalRecycle to report on its website:
   a) The amounts in pounds of all thermoform plastic containers sold in or imported into the state for the preceding calendar year;
   b) The number of containers returned and refilled; and
   c) The amount in pounds of each type of postconsumer resin used in those containers;

17) Requires the producer to register and pay a registration fee for the reasonable regulatory costs for implementing the reporting requirement.

18) Requires the producer to maintain records of all sales purchases, exports, and information regarding the source of any postconsumer resin for verification services.

19) Allows actions pursuant to this bill that increase the collection, processing and recycling of scrap plastic materials by a producer or to develop grading or

classifications by a nonprofit organization of producers to not violate the Cartwright or Unfair Practices Act unless they are made by agreement between two or more producers to affect the price of materials, the output or production of products, or restrict the customers to which products will be sold.

20) Exempts from these requirements thermoform plastic containers used to package dairy products if CalRecycle determines that:
    a) The use of postconsumer recycled resins violates the federal Food and Drug Administration (FDA) rules or regulations on food package safety or any CalREcycle regulations adopting guidance from the FDA; or
    b) The use of postconsumer recycled resin is not technologically feasible or the supply of recycled plastic suitable to meet the minimum recycled content requirements is insufficient.

Background

1) *Solid waste in California continues to pile up.* For three decades, CalRecycle has been tasked with reducing disposal of municipal solid waste and promoting recycling in California through the IWMA. Under IWMA, the state has established a statewide 75% reduction, recycling, and composting goal by 2020. According to CalRecycle's State of Disposal and Recycling Report for Calendar Year 2020, approximately 77.4 million tons of material was generated in 2020; with about 52% sent to landfills; 17% exported as recyclables; 12% composted, anaerobically digested or mulched; and 13% either recycled or source reduced. According to the report: "We are falling far short of our 75 percent recycling goal."

2) *Market challenges for recyclable materials lead to more waste.* The U.S. has not developed significant markets for recyclable content materials. Approximately 50% of plastic waste collected for recycling in the United States is exported; in 2016, 88% of that material was exported to countries that lack the infrastructure to properly manage it, leading to open disposal or open burning contributing to ocean plastic pollution and toxic air and GHG emissions. In California, approximately one third of recyclable material is exported.

3) *Thermoforms*. Thermoforms include a wide range of plastic packaging created by heating sheets of plastic and then formeing into a specific shape in a mold. Common thermoforms include plastic "clamshell" trays used for take-out food, plastic egg cartons, and bakery trays. Most thermoforms are made from polyethylene terephthalate (PET), but can be made from a wide range of plastic resins. In California, thermoforms have included relatively high quantities of

recycled content; however, the source of its PET has been PET bottles, not thermoforms. While providing an important market for recycled bottle plastic, recycling PET bottles into thermoforms means that the bottle is recycled once and then discarded (thermoforms usually end up in landfills). Under AB 793 (Ting, Chapter 115, Statutes of 2020), bottle manufacturers are required to include recycled content to ensure that bottles are recycled back into bottles.

In jurisdictions that accept thermoforms in curbside recycling, only thermoforms made out of PET are usually accepted. The majority of PET thermoforms collected are baled with other PET, primarily bottles, even though bottles and thermoforms generally cannot be recycled together. As a result, recyclers separate the bottles and the thermoforms are discarded.

Comments

1) *Purpose of Bill.* According to the author, "Since shipping recyclables overseas is no longer a viable option, California must develop its own markets for recycled content materials. Thermoform containers, or clamshells, have a low collection rate and are infrequently recycled. As the state is making strides towards increasing minimum recycled content in plastic bottles, thermoforms must do the same. This bill encourages efficient use of recyclable plastics and moves California towards a closed loop recycling system for PET bottles and PET thermoforms. AB 2784 sets a minimum recycled content standard for thermoform containers used in food and beverage applications in California."

2) *Creating a market for thermoform recycling*. Recycling requires markets for the postconsumer material in order to close the loop and create a new product from the same original material. Unlike the Bottle Bill, which requires the minimum postconsumer recycled content amount to increase over time regardless of recycling rates, this bill creates a tiered structure within each compliance period and links the minimum amount of postconsumer thermoform recycled plastic of a particular resin type to the recycling rate of that same resin type. If the recycling rate for a particular resin type is low, the minimum content requirements will be higher; and vice versa. Ramping up the minimum content requirements, according to the author, will drive up the recycling rate for that resin type while creating a market for recycling thermoforms.

3) *Why single out expanded polystyrene (EPS)?* This bill singles out EPS resins with lower threshold of pounds produced in the state necessary to trigger its requirements than any other resin. EPS is commonly known by the brand name Styrofoam. As most people have experienced, EPS is extremely lightweight

and so it only takes up a tiny percent of the total municipal solid waste stream by weight. However, EPS takes up a great deal of space and so it contributes a disproportionately large of the volume of the waste stream. As the triggers in this bill are based on pounds of resin sold in the state it makes sense to set a different threshold for the lightweight but voluminous EPS.

4) *How does this bill complement SB 54?* This year the Legislature passed SB 54, which creates an extended producer responsibility program for packaging and single-use plastic food service ware. SB 54's primary concern is on reducing the amount of material, including plastic, that ends up in California landfills and allows producers several mechanisms to achieve that goal. AB 2784 complements these goals by establishing a demand for postconsumer thermoform material, which should drive the expansion of recycling infrastructure that will help the producers meet the goals of SB 54.

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

According to the Senate Appropriations Committee:

- If enacted this bill would result in unknown, likely significant costs for CalRecycle to implement the provisions of this bill.

- Unknown, potentially significant penalty revenue (Thermoform Recycling Enhancement Penalty Account).

SUPPORT: (Verified 8/25/22)

rPlanet Earth (source)
Californians Against Waste
Monterey Bay Aquarium Foundation
Recyclesmart

OPPOSITION: (Verified 8/25/22)

Agricultural Council of California
American Chemistry Council
American Institute for Packaging and Environment
California Apple Commission
California Blueberry Association
California Blueberry Commission
California Cotton Ginners & Growers Association
California Fisheries and Seafood Institute
California Food Producers

California Fresh Fruit Association
California Grocers Association
California Manufacturers & Technology Association
California Restaurant Association
California Strawberry Commission
Consumer Brands Association
Foodservice Packaging Institute
Plastics Industry Association
Sonoco Products Company
Tekniplex
The Association of Plastic Recyclers
Western Agricultural Processors Association
Western Growers Association
Western Plastics Association

ARGUMENTS IN SUPPORT: According to Californian's Against Waste, "For more than a decade, California-made PET thermoform packaging has contained high levels of PCR content, substantially reducing California's dependency on overseas markets for PET plastic recycling. However, most of this PCR was derived from PET beverage containers, and as the beverage industry moves to increase their own recycled content commitment to comply with AB 793 (Ting, Irwin), the thermoform packaging industry and their produce customers will need to transition to their own 'closed loop' recycling system.

"To address this issue, AB 2784 builds on the AB 793 model and establishes a uniform timeframe and 'even playing field' requirements for the increased use of PCR in all types of thermoform food packaging (non-food thermoform plastic—RPPCs--have had a recycled content obligation in California for more than 25 years), as well as a fair and reasonable 'penalty' for packaging that can not safely demonstrate compliance.

"Together, these provisions will help California packaging manufacturers, produce distributors, recyclers and the recycling-public, to work together to increase 'closed loop' recycling of this growing source of plastic packaging, while phasing out that package and packaging applications that can not demonstrate compliance with California's circular economy objectives."

ARGUMENTS IN OPPOSITION: According to the Agricultural Council of California, "The framework of AB 2784, while well intended, fails to provide a clear path forward to closed-loop recycling and would derail significant progress already made by our industry towards recycling thermoform plastics.

"California fresh fruit and vegetable brands have a long history of using more California post-consumer recycled content in clamshells than any other food packaging in California's grocery stores. Significant investment has been made in research on alternatives to plastic packaging and how to transition from using rPET bottles to recycled PET clamshells as a source for recycled content…

"AB 2784 exempts all non-food thermoforms, putting the financial burden of recycling thermoforms entirely on the food system. Carve outs like this only exacerbate the current recycling issues impacting the State by creating greater consumer confusion as to what can and should be recycled."

ASSEMBLY FLOOR: 44-19, 5/26/22
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Mayes, Nguyen, Patterson, Salas, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Arambula, Berman, Chen, Choi, Cooley, Cooper, Daly, Gray, Grayson, Holden, Maienschein, O'Donnell, Ramos, Blanca Rubio, Villapudua

Prepared by: Jacob O'Connor / E.Q. / (916) 651-4108
8/26/22 15:47:54

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

SENATE RULES COMMITTEE AB 2791
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2791
Author: Bloom (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 10-0, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, Jones, McGuire, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: 5-0, 8/11/22
AYES: Portantino, Bradford, Jones, Laird, Wieckowski
NOTE VOTE RECORDED: Bates, McGuire

ASSEMBLY FLOOR: 59-1, 5/23/22 - See last page for vote

SUBJECT: Sheriffs: service of process and notices

SOURCE: Domestic Abuse Center
The People Concern

DIGEST: This bill requires a marshal or sheriff to accept an electronically signed notice or other process issued by a superior court in a civil action, including service of orders and other court documents for the purpose of notice, for persons with a fee waiver on January 1, 2024, and for all persons beginning January 1, 2026.

Senate Floor Amendments of 8/25/22 create the delayed implementation framework for the acceptance of electronic service requests in response to feedback from sheriffs' offices; and require acceptance of electronic service requests from persons not required to pay a fee beginning January 1, 2024, and from all persons beginning January 1, 2026, so as to give sheriffs' and marshals' departments time to develop infrastructure to accept payment for service fees.

ANALYSIS:

Existing law:

1) Requires a sheriff to serve all process and notices in the manner prescribed by law. (Gov. Code, § 26608.)

   a) "Process" includes all writs, warrants, summons, and orders of courts of justice, or judicial orders. (Gov. Code, § 26660(a).)

   b) "Notice" includes all papers and orders required to be served in any proceedings before any court, board, or officer, or when required by law to be served independently of such proceeding. (Gov. Code, § 26660(b).)

2) Provides that all writs, notices, or other process issued by superior courts in civil actions or proceedings may be served by any duly qualified and acting marshal or sheriff of any county in the state, subject to the Code of Civil Procedure. (Gov. Code, § 26665.)

3) Authorizes a party or their attorney to direct a sheriff to process service of court documents and provides that a sheriff is not liable for negligence or misconduct if the sheriff receives the written instructions for service in writing, including a writing transmitted electronically. (Code Civ. Proc., § 262.)

4) Provides that a sheriff or other ministerial officer is justified in the execution of, and shall execute, all process and orders regular on their face and issued by competent authority, whatever may be the defect in the proceedings upon which they were issued. (Code Civ. Proc., § 262.1)

5) Establishes the Levying Officer Electronic Transactions Act, which authorizes, but does not require, a sheriff or other levying officer to process service of documents transmitted to them electronically. (Code Civ. Proc., pt. 1, tit. 4, ch. 2, §§ 263 et seq.)

6) Defines the following relevant terms:

   a) "Electronic record" means a document or record created, generated, sent, communicated, received, or stored by electronic means.

   b) "Instructions" and "levying officer instructions" means a written request to a levying officer to serve process, perform a levy, execute an arrest warrant, or perform some other act.

c) "Record" means information that is inscribed on a tangible medium, or that is stored in an electronic or other medium and is retrievable in perceivable form. (Code Civ. Proc., § 263.1.)

7) Requires an electronic record transmitted to a levying officer to be accompanied by all of the following information:

a) The name of the sender.

b) The electronic address of the sender.

c) The name of the levying officer.

d) The electronic address or fax number of the levying officer. (Code Civ. Proc., § 263.4(b).)

8) Requires the person transmitting the electronic record to the levying officer to:

a) Retain the paper version of the record or document; and

b) Deliver the paper version of the record or document to the levying officer within five days after a request to do so has been mailed to the sender by the levying officer. (Code Civ. Proc., § 263.4(c).)

This bill:

1) Provides that a Judicial Council form provided to request service pursuant to 8), and the information contained therein, are exempt from disclosure under the Public Records Act.[1]

2) Provides that, notwithstanding any other law, a marshal or sheriff, including their department or office, shall accept an electronic signature, and shall not require an original or wet signature, on a document requesting the marshal or sheriff to serve court documents or on a summons, order, or other notice to be served.

a) "Notice" for purposes of this provision means all papers and orders required to be served in any proceedings before any court, board, or officer, or when required by law to be served independently of such proceeding.

[1] Because this provision does not take effect until January 1, 2023, the statutory reference is to the Public Records Act following its recodification. (*See* AB 473 (Chau, Ch. 614, Stats. 2021).)

3) Prohibits a marshal or sheriff, including their department or office, from reviewing the substance of a summons, order, or other notice to be served except for the following:

   a) That the applicable transmission form or forms created under 7) are present and that the required sections, if any, are complete.

   b) That a case number appears on the summons, order, or other notice to be served; blank forms, such as responsive forms, are not required to include a case number.

   c) That an order to be served, including a restraining order, bears the signature of the judge, including, but not limited to, a stamp or other endorsement or representation of the signature of a judge, certification of a clerk, or court endorsement or seal, and the information on the order materially matches the information regarding the person to be served on the form or forms.

4) Requires, beginning January 1, 2024, a marshal or sheriff, including their department or office, to accept transmission of the form or forms described in 7) and the summons, order, or notice to be served by email, fax, or in-person delivery from a person who has a fee waiver or is otherwise exempt from paying fees for service.

   a) In-person delivery may be accomplished by any person on behalf of the litigant.

   b) The marshal or sheriff shall not charge or collect a fee for service described in 4).

5) Requires, beginning January 1, 2026, a marshal or sheriff, including their department or office, to accept transmission of the form or forms described in 7) and the summons, order, or notice to be served by email, fax, or in-person delivery from any person.

   a) In-person delivery may be accomplished by any person on behalf of the litigant.

   b) The marshal or sheriff shall not charge or collect a fee for service requested by a person with a fee waiver or who is otherwise exempt from paying fees for service.

   c) The marshal or sheriff may charge a fee for other persons, provided that the fee does not exceed the actual cost incurred in processing the transmission.

6) Provides that 4)-5) shall not be construed to impede a private process server's rights or obligations, including, but not limited to, the ability to serve a notice or other process requested by a client.

7) Requires Judicial Council, on or before January 1, 2024, to create a statewide form or forms to be used by litigants in civil actions or proceedings to request service of process or notice by a marshal or sheriff, including their department or office.

8) Requires a marshal or sheriff, including their department or office, to accept an electronic signature on, and prohibits them from requiring an original or wet signature on, the form or forms created pursuant to 7).

9) Requires the form created pursuant to 7) to do all of the following:

    d) Require the name, address, and description of the person to be served and the signature of the litigant requesting service or their attorney of record. The form may also require additional information pertinent for service.

    e) Indicate on the form which fields on the form, if any, are required.

    f) Allow the litigant's or their attorney of record's signature to be made electronically.

10) Provides that the Judicial Council form or forms and the information contained therein are not subject to disclosure and shall be kept confidential.

11) Provides that 2)-10) become operative on January 1, 2024.

Comments

In recent years, the Legislature and California courts have worked together to modernize court operations and incorporate the use of technology into the legal system. Many civil court documents can be filed electronically, proceedings can occur remotely, and documents can be transmitted between parties using electronic means. Systems that facilitate the service of process, however, have not kept pace with these changes. Under current law, levying officers, including sheriffs' departments may, but are not required to, serve notice or other documents transmitted to them electronically. This discretionary regime leaves many litigants—who do not have a car, or who might be required to serve their abuser—with no good means for accomplishing service. Proponents of this bill also note that, in some cases, sheriffs' offices have refused to serve documents on

substantive grounds, essentially replacing their judgment for that of the bench officer who issued the original document.

This bill is intended to bring service of process in line with other state laws recognizing the validity of electronic transmission and service by requiring marshals and sheriffs, and their departments and offices, to serve notices, including court documents and orders, transmitted to them electronically for persons with a fee waiver beginning January 1, 2024, and for all persons requesting service beginning January 1, 2026. The staggered implementation date is intended to give sheriffs' departments time to implement payment processing infrastructure. This bill also requires Judicial Council to create a form or forms that will be mandatory for individuals electronically transmitting a document to a marshal or sheriff for service.

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

According to the Senate Appropriations Committee:

- Unknown, potentially reimbursable one-time and ongoing costs to local sheriff departments across the state for additional infrastructure and staff for to accept electronic documents for service (Local Funds, General Fund).

- Minor and absorbable costs to the Judicial Council to create a statewide form to request service of process by a sheriff or marshal.

SUPPORT: (Verified 8/26/22)

Domestic Abuse Center (co-source)
The People Concern (co-source)
1736 Family Crisis Center
Alameda County Bar Association
Asian Law Alliance
Bay Area Legal Aid
Bet Tzedek
California Partnership to End Domestic Violence
Center for Domestic Peace
Community Overcoming Relationship Abuse
Downtown Women's Center
Elder Law & Advocacy
Family Violence Appellate Project
Family Violence Law Center
Healthy Alternatives to Violent Environments

Interface Children & Family Services
Jenesse Center, Inc.
Jewish Family Service LA
Korean American Family Services
Laura's House
Legal Aid Foundation of Los Angeles
Legal Aid of Sonoma County
Legislative Coalition to Prevent Child Abuse
Los Angeles Center for Law and Justice
Los Angeles City Attorney Michael N. Feuer
Neighborhood Legal Services of Los Angeles County
Next Door Solutions to Domestic Violence
Peace Over Violence
Project: PeaceMakers, Inc.
Rainbow Services
San Diego Volunteer Lawyer Program
Sojourn
Su Casa—Ending Domestic Violence
The Harriet Buhai Center for Family Law
Women's Center – Youth & Family Services

OPPOSITION: (Verified 8/26/22)

Riverside County Sheriff's Department

ARGUMENTS IN SUPPORT: According to The People Concern, one of the sponsors of the bill:

> The vulnerable populations we serve are unable to hire private process services, and are forced to rely on the Sheriff's Department for the service of their restraining orders. But for decades, they have had requests for service rejected because they could not meet the Sheriff's Departments' arbitrary and capricious requirements. In many cases, especially where firearms may be involved, Sheriff's service is safer for the victim and their friends and family members. Additionally, until an order is served, a restrained party may not relinquish currently owned firearms and may not be identified as a prohibited person when attempting to purchase a firearm. Service, therefore, is a critical part of ensuring that restraining orders provide the court-ordered protection, as intended. Unfortunately, recent headlines highlight the tragic consequences if this doesn't happen.

> For survivors of intimate partner violence, the COVID-19 pandemic has been particularly difficult. Domestic violence shelters have been limited in the number of families that can be housed safely and victims have often been forced to be confined with their abuser. For survivors, the process to serve a [domestic violence restraining order] or [temporary restraining order] has been complicated by the unnecessary and unsafe requirement of some departments to require victims to deliver paper documents—in person—even during a pandemic. With courts expanding e-filing options, service of process needs to be equally flexible and safe. Timely service of orders appropriately signed by a judicial officer is necessary to protect vulnerable individuals and victims of domestic violence. AB 2791 will provide survivors with an important option to ensure safe, timely court access and prevent future harm to these victims.

ARGUMENTS IN OPPOSITION: According to the Riverside County Sheriff's Department, writing in opposition:

> As law enforcement officers who operate under the color of authority, it is common sense that we do not enforce or serve invalid court orders. This bill only permits law enforcement personnel to inspect documents for: 1) a valid case number, 2) the address of the person to be served, and 3) for the judge's signature and court seal. Limiting our ability to inspect the remaining content could lead to disastrous results…
>
> Without the opportunity for our office staff and deputies to review the substance of writs, notices, or other process of service issued by Superior Courts, our agency is unnecessarily exposed to civil and criminal liability. This could lead to exorbitant amounts of money spent on litigation defending our actions in court. More importantly, this could lead to dangerous confrontations between law enforcement and innocent parties.
>
> I cannot in good conscious [*sic*] direct my deputies and agency to serve orders blindly without first making a cursory inspection of those documents for accuracy, validity, and legal sufficiency.

ASSEMBLY FLOOR: 59-1, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Chen, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Petrie-Norris, Quirk, Quirk-Silva,

Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Seyarto
NO VOTE RECORDED: Berman, Mia Bonta, Choi, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Mayes, O'Donnell, Patterson, Ramos, Blanca Rubio, Smith, Valladares, Voepel, Waldron

Prepared by: Allison Meredith / JUD. / (916) 651-4113
8/26/22 15:47:55

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

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THIRD READING

Bill No: AB 2798
Author: Fong (R)
Amended: 8/24/22 in Senate
Vote: 27 - Urgency

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/22/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 74-0, 5/23/22 - See last page for vote

SUBJECT: Freight: development projects

SOURCE: Author

DIGEST: This bill prohibits a local agency, until January 1, 2024, from denying a permit for a short-term freight transportation use under specified circumstances, and provides that specified transportation uses on port properties are existing facilities for the purposes of the California Environmental Quality Act (CEQA).

Senate Floor Amendments of 8/24/22 add provisions related to CEQA.

ANALYSIS:

Existing law:

1) Allows cities and counties to "make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws." It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public—including land use authority.

2) Requires, under the California Environmental Quality Act (CEQA), lead agencies with the principal responsibility for carrying out or approving a

proposed project to prepare a negative declaration, mitigated negative declaration, or an environmental impact report (EIR) unless the project is exempt from CEQA.

3) Establishes statutory exemptions from CEQA, as well as delegates authority to the Natural Resources Agency to establish categorical exemptions—categories of projects that are generally are considered not to have potential impacts on the environment—including a categorical exemption for existing facilities.

This bill:

1) Prohibits a local agency from denying a permit for a short-term freight transportation use, as defined, that is submitted by a developer on a parcel if the proposed use is in conformity with all applicable plans, programs, and ordinances, among other things, that apply to the land, solely because the developer has a pending development application, or is concurrently submitting a development application, for a freight transportation project on that land.

2) Restricts the application of its provisions to land zoned for industrial or agricultural uses, subject to specified conditions, as of the date of the application submission.

3) Provides that:

   a) No actions, ministerial or discretionary, are authorized, required, or directed by the bill to a local agency other than those permitting requirements imposed by other applicable law.

   b) This bill does not supersede any other local, state, and federal laws applicable to short-term freight transportation uses except as specifically provided.

4) Provides that when the governing body of a California port or its designee adopts real estate agreements, tariffs, ordinances, or other applicable entitlements to allow for a short-term port freight transportation use or freight transportation infrastructure, the use shall be considered an existing facility for purposes of CEQA.

5) States the Legislature's intent to clarify that a project may be eligible for an exemption established pursuant to Section 21084 of the Public Resources Code, including, but not limited to, specified exemptions.

6) Defines its terms.

7) Repeals its provisions on January 1, 2024.

Background

Supply chain challenges. According to a recent publication by the Legislative Analyst's Office, "In order for businesses to produce and deliver goods and services to the consumer, goods must be transported from one place to another. Businesses often use ports, freight rail, and commercial trucks to move goods across international and state lines. For example, about 40 percent of U.S. imports and 25 percent of U.S. exports pass through the Ports of Los Angeles and Long Beach, which are both situated on San Pedro Bay…. In recent months, ports have experienced higher than normal levels of congestion. This is in part due to greater consumer demand for goods, which has resulted in a record volume of cargo at many ports. For example, in 2021, the San Pedro Bay ports processed 14.3 percent more cargo than in 2018. As a result, there is a growing backlog of ships waiting to offload and pick up goods at ports… Across all goods and services purchased by U.S. consumers, prices have risen by 7 percent over the past year, a considerably faster rate than recent history. Rising consumer prices primarily arise from a surge in the amount of goods consumers want to buy met with businesses struggling to produce and deliver those goods. One result of this dynamic is a dramatic increase in ocean freight costs, which businesses may pass on to consumers through higher prices. Port congestion appears to be a key driver of rising freight costs. Port congestion also may reduce the availability of some goods to retailers, which could increase the prices of some consumer goods."

The author wants to streamline the development of certain freight transportation uses.

Comments

Purpose of this bill. According to the author, "Assembly Bill 2798 is an immediate solution to remove congestion at the ports and improve California's freight transportation infrastructure. The supply chain crisis caused an unforeseeable disruption of our economy, and this bill will establish short-term permit and planning streamlining which will expand California's capacity to get our supply chain back on track."

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

SUPPORT: (Verified 8/25/22)

California Association of Port Authorities
Pacific Merchant Shipping Association

Port of Stockton

OPPOSITION: (Verified 8/25/22)

None received

ASSEMBLY FLOOR: 74-0, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Mia Bonta, O'Donnell, Blanca Rubio

Prepared by: Anton Favorini-Csorba / GOV. & F. / (916) 651-4119
8/26/22 15:47:56

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

SENATE RULES COMMITTEE AB 2806
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2806
Author: Blanca Rubio (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 6-0, 6/15/22
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, McGuire, Pan
NO VOTE RECORDED: Glazer

SENATE HUMAN SERVICES COMMITTEE: 5-0, 6/27/22
AYES: Hurtado, Jones, Cortese, Kamlager, Pan

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 76-0, 5/25/22 - See last page for vote

SUBJECT: Childcare and developmental services: preschool: expulsion and suspension: mental health services: reimbursement rates

SOURCE: Black Men for Educational Excellence
Kidango

DIGEST: This bill expands the existing prohibition on expelling children from state preschool programs to also prohibit the suspension of children enrolled in state preschool programs, and extends the prohibition on suspension and expulsion of children to include those enrolled in child care programs, with exception.

Senate Floor amendments of 8/25/22 (1) expand the prior experience needed to provide early childhood mental health consultation to also include those with experience in the field of social work or other related fields, as determined by CDE; (2) require CDE and DSS each to issue guidance by December 31, 2023, in consultation with the other department, through management bulletins or similar letters of instruction until regulations are filed; (3) clarify that "family childcare provider" is licensed and provides subsidized care; (4) delay several dates by

which CDE and DSS are to take specified actions from *before* July 1, 2023, to *beginning* July 1, 2023; (5) delay the date by which CDE and DSS are to collect information from contracting agencies, and makes such collection of information contingent on an appropriation; (6) require the collection of data and reporting by CDE and DSS to be undertaken within the framework of each department's existing data systems, to the greatest extent possible; and, (7) delete provisions related to the Joint Labor Management Committee making recommendations.

ANALYSIS:

Existing law:

1) Defines "early childhood mental health consultation service" to mean a service benefiting a child who is served in a California state preschool program, an infant or toddler who is 0 to 36 months of age and is served in a general childcare and development program, or a child who is 0 to 5 years of age and is served in a family childcare home education network setting funded by a general childcare and development program that includes, but is not limited to:

    a) Support to respond effectively to all children, with a focus on young children with disabilities, challenging behaviors, and other special needs.

    b) Assistance through individual site consultations, provision of resources, formulation of training plans, referrals, and other methods that address the unique needs of programs and providers.

    c) Aid to providers in developing the skills and tools needed to be successful as they support the development and early learning of all children, including observing environments, facilitating the development of action plans, and supporting site implementation of those plans.

    d) The development of strategies for addressing prevalent child mental health concerns, including internalizing problems, such as appearing withdrawn, and externalizing problems, such as exhibiting challenging behaviors.

    e) If a child exhibits persistent and serious challenging behaviors, support with the pursuit and documentation of reasonable steps to maintain the child's safe participation in the program. (WIC § 10281, EC § 8243)

2) Provides that the early childhood mental health consultation service is to be supervised and provided by a licensed marriage and family therapist, a licensed

clinical social worker, a licensed professional clinical counselor, a licensed psychologist, a licensed child and adolescent psychiatrist, or others, as specified. (WIC § 10281(b)(2), EC § 8243(b)(2))

3) Prohibits, in federal regulations, a Head Start program from expelling or disenrolling a child from Head Start based on the child's behavior and requires a program to prohibit or severely limit the use of suspension due to a child's behavior, as specified. (Code of Federal Regulations, Title 45 § 1302.17)

4) Prohibits a state preschool program contracting agency from expelling or disenrolling a child because of the child's behavior, *except* as described in # 7 below. (EC § 8222)

5) Authorizes a state preschool contracting agency to disenroll a child *only if* the contracting agency has expeditiously pursued and documented reasonable steps to maintain the child's safe participation in the program and determines, in consultation with the parents or legal guardians of the child, the child's teacher, and, if applicable, the local agency responsible for implementing the federal Individuals with Disabilities Education Act, that the child's continued enrollment would present a continued serious safety threat to the child or other enrolled children. (EC § 8222)

6) Requires a state preschool contracting agency, if it disenrolls a child, to refer the parents or legal guardians to other potentially appropriate placements, the local childcare resource and referral agency, or any other referral service available in the local community. A contracting agency has up to 180 days to complete the referral and process in # 7. (EC § 8222)

This bill:

Expulsion

1) Extends to general child care programs serving children birth through age five years the existing provisions that prohibit a state preschool program from doing either of the following, except as provided in # 5:

    a) Expel or disenroll a child because of a child's behavior.

b) Persuade or encourage a child's parents or legal guardians to voluntarily disenroll from the program due to a child's behavior.

2) Expands existing requirements and steps a program must take if a child exhibits persistent and serious behaviors, to include engaging an early childhood mental health consultant, if available.

3) Expands information that is to be provided to parents or guardians of a child who exhibits persistent and serious behaviors to include a description of the behaviors and the program's plan for maintaining the child's safe participation in the program.

4) Extends to general child care programs existing requirements that apply to state preschools related to (a) contacting agencies responsible for the individualized family service plan (IFSP) or individualized education program (IEP), if applicable, to seek consultation on serving the child; and, (b) completing a comprehensive screening to identify the needs of the child, including, but not limited to, screening the child's social and emotional development, referring the child's parents or legal guardians to community resources, and implementing behavior supports within the program.

5) Extends to general child care programs to authority to disenroll a child if the program has done both of the following within a 180 day timeframe:

a) Expeditiously pursued and documented reasonable steps to maintain the child's safe participation in the program and determines, in consultation with the parents or legal guardians of the child, the child's teacher, and, if applicable, the local agency responsible for implementing the federal Individuals with Disabilities Education Act, that the child's continued enrollment would present a serious safety threat to the child or other enrolled children; and,

b) Refer the parents or legal guardians to other potentially appropriate placements, the local childcare resource and referral agency, or other referral services available in the local community, and, to the greatest extent possible, support direct transition to a more appropriate placement.

Suspension

6) Prohibits a state preschool program and a general child care program from doing either of the following, except as provided in # 7, # 8, and # 9:

    a) Suspend a child due to a child's behavior.

    b) Encourage or persuade a child's parents or legal guardians to prematurely pick up a child due to a child's behavior before the program day ends.

7) Authorizes suspension to be used only as a last resort in extraordinary circumstances when there is a serious safety threat that cannot be reduced or eliminated without removal. Requires a program, to the greatest extent possible, to endeavor to ensure the full participation of enrolled children in all program activities.

8) Requires a program, before it determines that suspension is necessary, to collaborate with the child's parents or legal guardians and use appropriate community resources, as needed, to determine no other reasonable option is appropriate, and provide written notice to the child's parents or legal guardians.

9) Requires a program, if suspension is deemed necessary, to help the child return to full participation in all program activities as quickly as possible while ensuring child safety by doing all of the following:

    a) Continuing to engage with the parents or legal guardians and continuing to use appropriate community resources.

    b) Developing a written plan to document the action and supports needed.

    c) Providing referrals to appropriate community services.

    d) Contact the agency responsible for the IFSP or IEP, as appropriate, with written parental consent, to seek consultation on serving the child.

Mental health consultation service

10) Modifies the definition of "early childhood mental health consultation service" to clarify who is to receive support (families, providers, caregivers) and to

include the creation of trauma-informed, proactive inclusive environments.

11) Expands early childhood mental health consultation to include (a) face-to-face interactions or video-based platforms and other modes of communication that are compliant with the federal Health Insurance Portability and Accountability Act, such as the telephone; and, (b) group or individual consultations of any of the specified actions.

12) Modifies the frequency at which early childhood mental health consultation services may occur in order for reimbursement, from a "consistent frequency to ensure a mental health consultant is available to partner with staff and families in a timely manner", to the service being provided continuously throughout the program year.

13) Expands the existing list of licensed mental health professionals who are to provide early childhood mental health consultation to include a credentialed school psychologist and a credentialed school counselor.

Comments

Need for the bill. According to the author, "Across California, children are expelled and suspended from preschool at alarming rates and in situations where more support for the child, teacher, and program could have prevented unnecessary exclusionary discipline and instead, kept the child in school and on track to stronger outcomes in school and life. Furthermore, these suspensions and expulsions are disproportionately impacting African American/Black and Hispanic/Latino children and students of color, especially boys of color, children with disabilities, and dual-language learners. It is counterproductive for our state to allow early learning and care settings to exclude children at a time when they are most in need of support, care, and guidance."

Masterplan for Early Learning and Care. In December 2020, the California Health and Human Services Agency released the Master Plan for Early Learning and Care to create a roadmap and recommendations for expanding and improving California's early learning and care system over the next five to ten years. Within the Master Plan are recommendations to address equity in early learning and care programs. Among the solutions were the suggestion that, "Providers should also agree to a no-exclusionary-practice clause (banning suspensions and expulsions) as a condition of state or federal funding, as these practices disproportionately affect children of color and children with disabilities." Additionally, the Master Plan suggested that the state, "should collect suspension, expulsion, and discipline data,

disaggregated by gender, age, race, ethnicity, home language, and disability, to focus on support for providers, including technical assistance, anti-bias training, and early childhood mental health consultation." This bill essentially implements these recommendations.

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

According to the Senate Appropriations Committee:

1) The CDE estimates one-time General Fund in the hundreds of thousands of dollars each year for various administrative activities as a result of this measure. These activities include providing staff training and technical assistance to state preschool program providers, ensuring data collection and publication, and development of guidance for the state preschool program on implementing the new requirements by July 1, 2023. {Policy staff notes the most recent amendments delay implementation until beginning after July 1, 2023, and provide the collection and reporting of data is contingent upon an appropriation.}

2) The DSS estimates General Fund costs that could range from $5 million to $14 million for workload activities associated with the childcare programs. DSS indicates there could be additional costs of between $1 million and $10 million for implementing statewide collection, processing, and publishing of the required data from contracting agencies.

3) The bill's expansion of the mental health consultant definitions could result in increased access to mental health consultation services for contractors and allow them to utilize the provider reimbursement rate adjustment factors for these additional expenses.

4) The bill's requirement that state preschool program providers take specified steps to address students' behaviors prior to expelling or disenrolling them could potentially create additional, unknown local costs for providers.

SUPPORT: (Verified 8/25/22)

Black Men for Educational Excellence (co-source)
Kidango (co-source)
State Superintendent of Public Instruction Tony Thurmond
American Association of University Women – California
California Association for the Education of Young Children
California Association of School Counselors

California Association of School Psychologists
California State Association of Psychiatrists
Children's Partnership
Early Edge California
Fight Crime: Invest in Kids
First 5 Association of California
First 5 California
National Association of Social Workers, California Chapter
National Health Law Program
Santa Clara County Office of Education
Shields for Families
Silicon Valley Community Foundation
The Education Trust - West

OPPOSITION: (Verified 8/25/22)

None received

ASSEMBLY FLOOR: 76-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, O'Donnell

Prepared by: Lynn Lorber / ED. / (916) 651-4105
8/26/22 15:47:56

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

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THIRD READING

Bill No: AB 2841
Author: Low (D), et al.
Amended: 8/11/22 in Senate
Vote: 21

SENATE ELECTIONS & C.A. COMMITTEE: 4-1, 6/21/22
AYES: Glazer, Hertzberg, Leyva, Newman
NOES: Nielsen

SENATE JUDICIARY COMMITTEE: 9-1, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, McGuire, Stern, Wieckowski, Wiener
NOES: Jones
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 56-17, 5/25/22 - See last page for vote

SUBJECT: Disqualification from voting

SOURCE: American Civil Liberties Union California Action
League of Women Voters of California

DIGEST: This bill requires the Secretary of State (SOS) to post data showing the number of conservatorship voting rights disqualifications and restorations by county, and to provide training to court and county staff related to conservatorship voting rights to ensure compliance with existing law. This bill also requires a county elections official, before canceling a voter's registration, to notify the voter and provide the voter with an opportunity to correct an erroneous cancellation, as specified. Provides that this bill shall become operative on January 1, 2024.

ANALYSIS:

Existing federal law:

1) Requires each state, pursuant to the National Voter Registration Act (NVRA), to conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters by reason of death of the registrant, or a change in the residence of the registrant, as specified.

2) Prohibits, pursuant to NVRA and the Help America Vote Act, the removal of a voter from the list of eligible voters in elections for federal office on the grounds that the registrant has changed residence unless, either: a) the registrant confirms their change in residence in writing, as specified, or b) the registrant has failed to respond to a specified notice and has not voted or appeared to vote in an election between the time that the notice is sent and the date of the second federal general election after the notice is sent.

Existing state law:

1) Permits a person who is a United States citizen, a resident of California, not imprisoned for the conviction of a felony, not found mentally incompetent to vote by a court, and at least 18 years of age at the time of the next election, to register to vote and to vote.

2) Provides that the Legislature shall prohibit improper practices that affect elections and shall provide for the disqualification of electors while mentally incompetent or imprisoned for the conviction of a felony.

3) Requires each county elections official to conduct a pre-election residency confirmation of each registered voter prior to each primary election pursuant to one of several specified procedures.

4) Provides that actions shall be taken with respect to information that the county elections official receives from the USPS or its licensees as a result of the pre-election residency confirmation process, as specified.

5) Provides that any voter whose registration is inactive and who offers to vote or who notifies the elections official of a continued residency shall be removed from the inactive list and placed on the active voter list.

6) Requires the county elections official to cancel a voter's registration in the number of cases, as specified cases: a) a signed, written of the person registered; b) the person lacks mental competency as established pursuant to existing law; c) proof that the person is presently imprisoned for conviction of a felony; d) a certified copy of a judgment directing the cancellation to be made; e) upon the death of the person registered; f) upon notification as part of a pre-election residency confirmation procedure that the person has moved, but only after a specified notification is sent to the voter, and the voter subsequently fails to vote or update their voter registration during the period between the time that notification is mailed and two federal general elections after the date of that mailing; g) upon official notification that the voter is registered to vote in another state; or, h) upon proof that the person is otherwise ineligible to vote.

7) Permits the SOS to cancel a voter's registration in the following cases: a) when the mental incompetency of the person registered is legally established pursuant to existing law; b) upon proof that the person is presently imprisoned for the conviction of a felony; c) upon the death of the person registered.

8) Provides that a person is presumed competent to vote regardless of their conservatorship status.

9) Requires a person to be deemed mentally incompetent, and therefore disqualified from voting, if a court or jury, as specified, finds by clear and convincing evidence that the person cannot communicate, with or without reasonable accommodations, a desire to participate in the voting process.

10) Prohibits a person from being disqualified from voting on the basis that the person did any of the following: a) signed the affidavit of voter registration with a mark or cross pursuant to existing law; b) signed the affidavit of voter registration by means of a signature stamp; c) completed the affidavit of voter registration with the assistance of another person; or, d) completed the affidavit of voter registration with reasonable accommodations.

11) Requires a court investigator, as part of the process for establishing or reviewing a conservatorship of a person, to review the person's capability of communicating, with or without reasonable accommodations, a desire to participate in the voting process, as specified. Requires a court investigator, if the conservatee's capability of communicating a desire to participate in the voting process has changed, to inform the court and requires the court to hold a

hearing regarding the capability, as specified.

12) Requires a court to forward the order to the county elections official and the SOS if it is found by clear and convincing evidence that the person cannot communicate, with or without reasonable accommodations, a desire to participate in the voting process, or that the person can communicate, with or without reasonable accommodations, a desire to participate in the voting process.

This bill:

1) Requires a county elections official, between 15 and 30 days before canceling a person's registration on the grounds that the person is mentally incompetent, imprisoned for a conviction for a felony, death, has changed residence, or is proven otherwise ineligible to vote, to send a forwardable notice by first class mail, including a postage-paid and preaddressed return form, to the person, as specified.

2) Provides that a county elections official may send additional written notices to a voter, and may also notify the voter in person, by telephone, email or other means of planned registration cancellation.

3) Requires the clerk of the superior court of each county, by the first day of each month, and more frequently if the clerk so chooses, to notify the SOS pursuant to the provisions of this bill of both of the following: a) all findings made by the court regarding any person's competency to vote, since the clerk's last report; b) the total number of proceedings in which an individual was deemed disqualified from voting, that occurred in that court since the clerk's last report.

4) Requires the Judicial Council, in consultation with the SOS, to adopt rules of court to implement the provisions of this bill, and the Judicial Council forms that are used by courts to provide the notices to the SOS previously described. Requires the forms to contain clearly identified spaces for specified information, including personal identifying information.

5) Requires the SOS to inform the clerk of the court when it receives a notice from the court that is missing any personal identifying information as specified.

6) Requires the SOS, upon receipt of all of the required personal identifying information, to do both of the following: a) identify any registration record in the statewide voter database that contains personal identifying information that matches each of the unique identifiers in the information supplied to it, and b) within three days of receiving the information from the court, for any matched records, to provide the personal identifiable information, the corresponding unique identifier or identifiers contained in the statewide voter database, and a statement regarding whether the legal effect of the court's order is to disqualify or restore the right to vote, to the appropriate county elections official.

7) Requires the county elections official, upon receiving information from the SOS to either begin cancellation notification procedures or notify the person that their voting rights are restored, as specified.

8) Provides that a county or county elections official is not liable for taking or failing to take action when the county or county elections official has received erroneous information from the SOS.

9) Provides if a person who is ineligible to vote receives a notice pursuant to this bill that the person's right to vote has been restored, and subsequently becomes registered or preregistered to vote, and votes or attempts to vote in an election held after the effective date of the person's registration or preregistration, that person shall be presumed to have acted with official authorization and shall not be guilty of fraudulently voting or attempting to vote pursuant to existing law, unless that person willfully votes or attempts to vote knowing that the person is not eligible to vote.

10) Requires the SOS, each month, to post on its website a report showing the number of voting rights disqualifications and voting rights restorations that were ordered within each county and the number of court proceedings in each county in which a person was deemed mentally incompetent, and therefore disqualified from voting.

11) Requires the SOS, in consultation with the Judicial Council, to prepare and deliver a training that contains information about the responsibilities of superior courts and county elections officials and information about the legal standards for voting rights disqualification, the duties of court investigators, and the reporting requirements for courts related to voting rights disqualification and restoration.

12) Makes additional conforming changes.

13) Provides that this bill shall become operative on January 1, 2024.

Background

Brennan Center Report. A 2008 Brennan Center for Justice report titled "Voter Purges" examined state practices for updating voter registration lists and the removal of voters from those lists, referred to in the report as "purging" the voter rolls. Their analysis is based on a review and examination of state statutes, regulatory materials, and news reports in twelve states. The report makes various policy recommendations and details best practices to reduce the occurrence of erroneous purges and protect eligible voters from erroneous purges.

One of the best practices recommended in the report is that a voter should be individually notified and given the opportunity to correct any errors or omissions, or demonstrate eligibility, before the voter's registration is canceled.

The report additionally suggests that states should develop and publish rules and procedures for curing a voter's erroneous inclusion in an impending purge. For registrants who have been purged from the voter registration list, the report recommends that states should explicitly set out a means by which they may be restored easily to the voter registration list, without regard to the voter registration deadline.

Comments

1) According to the author, this voting rights bill would address two procedural concerns: 1) conservatorship voting rights clean-up and 2) notice of registration cancellation.

   Although California has made some improvements to protections for the rights of people with disabilities in recent years, voters with disabilities are still underrepresented in our democracy. And while there has recently been an increase in public awareness about the urgency of protecting the rights of people with disabilities who are placed under conservatorship, more must be done to ensure that eligible voters under conservatorship are not wrongly excluded from the ballot box.

   Errors in existing reporting systems and overly aggressive voter purges lead to the disenfranchisement of eligible voters. Studies show that these erroneous cancellations disproportionately impact voters who are Black, Brown,

Indigenous, or other people of color, low-income, and young people. AB 2841 would implement best practices for preventing the disenfranchisement of eligible voters by requiring county elections officials to notify affected voters before cancelling their registration and to give those voters an opportunity to stop erroneous cancellations before they happen.

Related/Prior Legislation

SB 589 (Block, Chapter 736, Statutes of 2015) authorized an individual with a disability who is otherwise qualified to vote to complete an affidavit of registration with reasonable accommodations as needed and presumes that a person is mentally competent to vote, regardless of their conservatorship status, if the court finds that the person can communicate a desire to participate in the voting process.

AB 1311 (Bradford, Chapter 591, Statutes of 2014) prohibited a person, including a conservatee, from being disqualified from voting on the basis that the person signs the affidavit of voter registration with a mark or a cross, signs the affidavit of voter registration with a signature stamp, or completes the affidavit of voter registration with the assistance of another person.

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

According to the Senate Appropriations Committee:

- SOS indicates that it would incur General Fund costs of $1.3 million to implement its provisions of the bill. Cost drivers include (1) additional staff and IT infrastructure to accommodate filings and data development, (2) a third-party vendor contract for secure electronic file transfers, and (3) updates to the VoteCal system as well as ongoing local user support related to changes to the county VoteCal system.

- By requiring county elections officials to provide notice of the intent to cancel a person's registration between 15 and 30 days before the cancellation, as specified, and provide an opportunity for a voter to dispute or correct any incorrect cancellation, this bill creates a state-mandated local program. To the extent the Commission on State Mandates determines that the provisions of this bill create a new program or impose a higher level of service on local agencies, local agencies could claim reimbursement of those costs (General Fund). The magnitude of the costs is unknown, but likely in the hundreds of thousands of dollars per election cycle.

SUPPORT: (Verified 8/12/22)

American Civil Liberties Union California Action (co-source)
League of Women Voters of California (co-source)
A New Way of Life Reentry Project
Asian Americans Advancing Justice – California
California Association of Nonprofits
California Black Power Network
California Common Cause
California Environmental Voters
California School Employees Association
Courage California
Disability Rights California
Dolores Huerta Foundation
Ella Baker Center for Human Rights
Inland Empire United
Santa Clara County Democratic Party
Services, Immigrant Rights and Education Network
The W. Haywood Burns Institute
Union of Concerned Scientist

OPPOSITION: (Verified 8/12/22)

None received

ASSEMBLY FLOOR: 56-17, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Chen, Mayes, Nguyen, O'Donnell

Prepared by: Karen French / E. & C.A. / (916) 651-4106
8/16/22 14:55:31

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

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THIRD READING

Bill No: AB 2849
Author: Mia Bonta (D), et al.
Amended: 8/17/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-0, 6/22/22
AYES: Cortese, Durazo, Laird, Newman
NO VOTE RECORDED: Ochoa Bogh

SENATE JUDICIARY COMMITTEE: 9-1, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, McGuire, Stern, Wieckowski, Wiener
NOES: Jones
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 56-15, 5/25/22 - See last page for vote

SUBJECT: The Promote Ownership by Workers for Economic Recovery Act

SOURCE: SEIU California

DIGEST: This bill enacts the Promote Ownership by Workers for Economic Recovery Act establishing a panel to conduct a study regarding the creation of an Association of Cooperative Labor Contractors for the purpose of facilitating the growth of democratically run high-road cooperative labor contractors. The bill requires the study to consider specified issues and to be complete and publicly available by June 30, 2024.

Senate Floor Amendments of 8/17/22 delay the date of completion and public availability of the study from December 31, 2023 to June 30, 2024.

ANALYSIS:

Existing law:

1) Establishes the Nonprofit Corporation Law that recognizes the following:

   a) Public benefit corporations;
   b) Mutual benefit corporations; and
   c) Religious corporations.
   (Corporations Code §5000-10841)

2) Establishes the Nonprofit Mutual Benefit Corporation Law and provides that a corporation may be formed as a nonprofit mutual benefit corporation for any lawful purpose, provided that it is not formed exclusively for charitable purposes, religious, or public purposes, as specified. (Corporations Code §7110-8910)

3) Defines "worker cooperative" or "employment cooperative" as a corporation, formed under the Cooperative Corporations part of the Corporations code, which includes a class of worker-members who are natural persons whose patronage consists of labor contributed to or other work performed for the corporation. Election to be organized as a worker cooperative or an employment cooperative does not create a presumption that workers are employees of the corporation for any purposes. At least 51 percent of the workers shall be worker-members or candidates. (Corporations Code §12253.5)

4) Establishes the Labor and Workforce Development Agency (LWDA) to serve California workers and businesses by improving access to employment and training programs, enforcing California labor laws to protect workers and create an even playing field for employers, and administering benefits that include workers' compensation, unemployment insurance, and disability insurance and paid family leave. (Corporations Code §15550-15562)

5) Establishes, through Executive Order, the Future of Work Commission tasked with studying, among other matters, "the potential jobs of the future and opportunities to shape those jobs for the improvement of life for all of California," "policies and practices that will help California's businesses, workers, and communities thrive economically, while responding to rapid changes in technology and workplace structures and practices," "policies and practices that will close the employment and wage gap for Californians," "strategies for engaging employers in the creation of good, high-wage jobs of

the future," and "workforce development, training, education, and apprenticeship programs for the jobs of the future." (EO No-17-19)

This bill:

1) Finds and declares that:

    a) Worker cooperatives have been shown to convey wealth building and other significant benefits to workers, including autonomy from larger economic forces, more resiliency during economic downturns, lower workforce turnover, greater voice in health, safety, and other workplace issues, and more equitable pay.
    b) California-focused federated worker cooperative system may advance these objectives by encouraging the expansion of democratically run high-road cooperative businesses that promote equitable economic development, reduce inequality, and increase access to living-wage jobs.
    c) The Legislature wishes to study how a federated worker cooperative system could advance the goals of the Future of Work Commission, particularly as they apply to historically underresourced communities.

2) Creates the Promote Ownership by Workers for Economic Recovery Act (Act) establishing a panel to conduct a study regarding the creation of an Association of Cooperative Labor Contractors for the purpose of facilitating the growth of democratically run high-road cooperative labor contractors.

3) Requires staff from the Labor and Workforce Development Agency, or a subsidiary department thereof selected by the Secretary of Labor and Workforce Development, to assist the panel in its tasks.

4) Specifies that the panel shall consist of the all of the following members:

    a) The secretary or the director of a subsidiary department, as specified.
    b) The Director of the Governor's Office of Business and Economic Development.
    c) An appointee of the Speaker of the Assembly.
    d) An appointee of the President pro Tempore of the Senate.
    e) A representative from the Future of Work Commission, as specified.

5) Authorizes the panel, in preparing the study, to retain outside experts on high-road jobs, worker cooperatives, business formation, and other pertinent topics.

6) Requires the study to consider, at a minimum, how to do all of the following:

   a) Advance the goals of the Future of Work Commission.
   b) Incentivize the growth of the association and its members.
   c) Promote tenets of democratic worker control, including, but not limited to, uniform hiring and ownership eligibility criteria, worker-owners working most hours worked, most voting ownership interest being held by worker-owners, most voting power being held by worker-owners, and worker-owners exercising their vote on a one-person, one-vote basis.
   d) Ensure that the association's members offer high-road jobs, which include, but are not limited to, jobs with the right to organize and participate in labor organizations and jobs with minimum labor standards, as specified, a compensation ratio between the highest and lowest paid employees, minimum health expenditures, minimum retirement expenditures, and protections for individuals formerly in the criminal justice system.

7) Requires the panel, in preparing the study, to engage in a stakeholder process by which it consults with, at a minimum, organized labor, worker cooperatives, and business groups that can assess the opportunities and challenges associated with expanding workplace democracy in the major sectors of the economy throughout the state.

8) Requires the panel to complete the study and make it publicly available on the internet no later than June 30, 2024.

Background

Future of Work Commission: On August 14, 2019, Governor Newsom signed Executive Order No-17-19 establishing the Future of Work Commission. In March 2021, the Commission issued its report, "A New Social Compact for Work and Workers," recommending that, among other actions, California help (1) ensure the creation of sufficient numbers of jobs for everyone who wants to work, including by extending financial and technical assistance to mission-oriented businesses, (2) eliminate working poverty, including by creating supports for workers to organize in unions and worker associations as well as supporting "high-road" employment, (3) create a 21st-century worker benefits model and safety net, including by developing a portable benefits platform and encouraging apprenticeship and other skill-building programs, (4) raise the standard and share of quality jobs, including by creating a California Job Quality Incubator to support the increase of high-quality jobs, and (5) futureproof California with jobs and skills to prepare for

technology, climate, and other shocks, including by providing incentives to the private sector to invest in worker training.

Worker Co-Ops: A worker cooperative is a business that is owned and controlled by its workers, who constitute the members of the cooperative. The two central characteristics of worker cooperatives are:

- workers own the business and they participate in its financial success on the basis of their labor contribution to the cooperative
- workers have representation on and vote for the board of directors, adhering to the principle of one worker, one vote

According to the Assembly Committee on Banking and Finance policy analysis of this bill:

> A cooperative corporation (or co-op) conducts its business primarily for the mutual benefit of its members as patrons of the corporation. The earnings, savings, or benefits of the co-op are legally required to be used for the general welfare of the members. Whereas a traditional corporation generates earnings for its owners or shareholders, a co-op is required to proportionately and equitably distribute earnings to some or all of its members or its patrons, based upon their patronage of the corporation.
>
> Consumer co-ops and worker co-ops are two general classes of cooperative corporations. A consumer co-op is organized for the benefit of its members who purchase goods or services from the co-op. *A worker co-op is organized for the benefit of its members who provide their labor in the production of the good or service sold by the co-op.*
>
> Both consumer and worker co-ops are required to distribute their earnings, savings, and benefits to their members. For worker co-ops, these distributions are typically based on the amount of hours worked or wages earned and often take the form of a share in year-end profits.

[NOTE: Please see Senate Labor, Public Employment and Retirement Committee analysis on this bill for more background information on the challenges faced in creating worker co-ops and examples of such models.]

Comments

Need for this bill? According to the author, "Forming worker co-ops can be difficult due to complicated state and federal laws, tax laws, and access to capital. A typical worker owned co-op needs to have access to capital, and often requires multiple financial sources such as loans from banks, CDFIs, investors, members, or even community members. Additionally, there is no uniform cooperative code in the United States, and definitions and incorporation guidelines vary from state to state. The lack of understanding around co-ops has created material challenges for these entities. For example, worker co-ops in California have reported facing administrative struggles in obtaining loans, insurance, and other areas where an individual is asked to sign and unduly take on the liability that is in actuality spread across the worker-owners."

Related/Prior Legislation

SB 1407 (Becker, 2022) establishes the CA Employee Ownership Program within the Office of Small Business Advocate to assist small businesses in transitioning to employee ownership. Establishes an Employee Ownership Outreach and Technical Assistance Grant Program for funding education and outreach programs that increase awareness and technical assistance for employee ownership transitions. Establishes an Employee Ownership Feasibility Assessment Grant Program (EOFA Grant) to assist in the development of financial assessments to determine viable employee-ownership transition scenarios.

AB 1319 (Gonzalez, 2021) – This bill (AB 2849) began as a reintroduction of AB 1319, which did not move out of Assembly Appropriations committee.

SB 779 (Becker, Chapter 223, Statutes of 2021) amended the list of "earn and learn" programs by specifying that an "earn and learn" program includes transitional jobs, as described in the federal Workforce Innovation and Opportunity Act (WIOA), and subsidized employment, as provided by an employment social enterprise, or a worker cooperative, particularly for individuals with barriers to employment.

AB 816 (Bonta, Chapter 192, Statutes of 2015) renamed the Cooperative Corporation Law and authorized a cooperative corporation to elect to designate itself as worker cooperative in its articles of incorporation, and require that 51% of the workers shall be worker-members or candidates.

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

According to the Senate Appropriations Committee, the Labor and Workforce Development Agency (LWDA) would likely incur a one-time cost in the hundreds of thousands of dollars to complete the study (General Fund).

SUPPORT: (Verified 8/17/22)

SEIU California (source)
A Slice of New York
American Sustainable Business Network
California Labor Federation, AFL-CIO
Cooperacion Santa Ana
Project Equity
Worker-Owned Recovery California Coalition

OPPOSITION: (Verified 8/17/22)

None received

ARGUMENTS IN SUPPORT: According to the sponsors of this bill, SEIU California, "Worker co-ops operate across the world and across industries, both as for-profit and nonprofit enterprises. In contrast to the conditions many workers are facing today, worker co-ops offer a worker-centered model that offers both a sustainable, long-term arrangement for workers, and accelerates their economic recovery. While the worker co-op model has been successful globally and in smaller operations in the United States, co-ops have not yet scaled up, largely due to a lack of access to capital and to expertise in navigating the complex tax and corporation laws associated with forming a co-op."

ASSEMBLY FLOOR: 56-15, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Flora, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Choi, Cunningham, Megan Dahle, Davies, Fong, Gallagher, Kiley, Mathis, Nguyen, Patterson, Seyarto, Smith, Voepel, Waldron

NO VOTE RECORDED: Berman, Chen, Daly, Lackey, Mayes, O'Donnell, Valladares

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
8/19/22 13:09:01

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

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

THIRD READING

Bill No: AB 2877
Author: Eduardo Garcia (D) and Mathis (R)
Amended: 8/25/22 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 7-0, 6/29/22
AYES: Allen, Bates, Dahle, McGuire, Skinner, Stern, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 72-0, 5/23/22 - See last page for vote

SUBJECT: Safe and Affordable Drinking Water Fund: tribes

SOURCE: Author

DIGEST: This bill requires the State Water Resources Control Board (State Water Board) when administering funds under the Safe and Affordable Drinking Water Fund (Fund) to California Native American tribes to draft any waiver of tribal sovereign immunity as narrowly as possible, include its designated tribal liaison or their designee (s) in all discussions with eligible recipients, and annually identify barriers to tribes accessing funding if they cannot consistently approve funding applications to tribal applicants in a timely manner.

Senate Floor Amendments of 8/25/22 give the ability for the Water Board's tribal liaison to appoint a designee to aid in their duties under this bill and alter the requirement for the State Water Board to identify barriers to tribal access of funds to only apply if they cannot consistently approve funding applications to tribal applicants in a timely manner.

ANALYSIS:

Existing law:

1) Establishes the California Safe Drinking Water Act (SDWA) and requires the State Water Resources Control Board (State Water Board) to maintain a drinking water program. (Health & Safety Code (HSC) § 116270, et seq.)

2) Requires the State Water Board to submit to the Legislature a comprehensive Safe Drinking Water Plan for California every five years. (HSC § 116355)

3) Creates the Safe and Affordable Drinking Water Fund (Fund) in the State Treasury to help water systems provide an adequate and affordable supply of safe drinking water in both the near and long terms. (HSC § 116766) Moneys in this fund can be used to fund:

    a) Operation and maintenance costs for delivering safe drinking water;
    b) Consolidating water systems or extending drinking water services to other public water systems, domestic wells, and smalls state water systems;
    c) Providing replacement water as a short-term solution to protect health and safety;
    d) Services for helping water systems become self-sufficient;
    e) The development, implementation, and sustainability of long-term drinking water solutions; and
    f) Board costs associated with implementing and administering these programs.

4) Specifies that public agencies, nonprofit organizations, public utilities, mutual water companies, federally recognized California Native American Tribes, nonfederally recognized Native American tribes identified by the Native American Heritage Commission, administrators, groundwater sustainability agencies, community water systems, and technical assistance providers are the entities eligible for receiving moneys from this fund.

5) Establishes as the policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. (Water Code § 106.3)

This bill:

1) Defines "tribal liaison" as an individual employed by the State Water Board as a tribal liaison, or if they are unavailable, a tribal coordinator, the Board's chair, the Board's executive director, or the Board's chief counsel active in that capacity as a designee or the designees of the tribal liaison.

2) Requires that any waiver of tribal sovereign immunity that is required by the State Water Board to access SAFFER funding shall be narrowly drafted and negotiated with the involvement of the Board's tribal liaison or their designee(s).

3) Requires the State Water Board to include its designated tribal liaison or their designee(s) in all discussions with eligible recipients, unless those recipients give permission for the liaison or designee(s) to be absent.

4) Requires the State Water Board to consider the extent that funds are distributed to provide assistance to tribes and make diligent efforts to ensure the distribution of SAFER funds to federally recognized California Native American tribes and nonfederally recognized Native American tribes on the contact list maintained by the Native American Heritage Commission.

5) Requires the State Water Board to annually update and post on its website the number of inquiries for funding receive from tribes, the number of applications for funding received from tribes, and the total amount of funding granted to tribes each year.

6) Requires the State Water Board, if they are unable to consistently approve funding applications from eligible tribes in a timely matter, to identify barriers to tribes receiving funding and propose possible solutions in the fund expenditure plan.

Background

1) *Human right to water.* In 2012, California became the first state to enact a Human Right to Water law, AB 685 (Eng, Chapter 524, Statutes of 2012). This bill states that it is the policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. The human right to water extends to all Californians, including disadvantaged individuals and groups and communities in rural and urban areas. Additionally, AB 685 requires all relevant state agencies, including the State Water Board, to consider this human right to water policy when revising, adopting, or establishing policies,

regulations and grant criteria when those polices, regulations and criteria are pertinent to the uses of water. Although most of the state's residents receive drinking water that meets federal and state drinking water standards, many drinking water systems in the state consistently fail to provide safe drinking water to their customers. Lack of safe drinking water is a problem that disproportionately affects residents of California's disadvantaged communities.

2) *The Safe and Affordable Funding for Equity and Resilience (SAFER) program*. SB 200 (Monning, Chapter 120, Statutes of 2019) created SAFER and the Safe and Affordable Drinking Water Fund (Fund). The SAFER program supports permanent and sustainable drinking water solutions that ensure all Californians have access to safe, affordable, and reliable drinking water. The Fund was established to address funding gaps and provide solutions to water systems, especially those serving disadvantaged communities, to address both their short- and long-term drinking water needs. SB 200 requires the annual transfer of 5 percent of the Greenhouse Gas Reduction Fund (GGRF) (up to $130 million) into the Fund until June 30, 2030. Money transferred into the Fund is continuously appropriated and must be expended consistent with the Expenditure Plan (Plan), which is adopted annually by the State Water Board. The Plan is based on a drinking water needs assessment and will document past and planned expenditures and prioritize projects for funding. Potential options for funding include consolidation with larger water systems, operations and maintenance costs, building local technical and managerial capacity, providing interim replacement water, and administrators to run the small systems.

3) *State Water Board's Racial Equity Resolution and Racial Equity Action plan*. The State Water Board adopted its Racial Equity Resolution (#2021-0050) by a unanimous five to zero vote on November 16, 2021. The Racial Equity Resolution cites the California Environmental Protection Agency's 2021 Pollution and Prejudice StoryMap and CalEnviroScreen data that demonstrate that historically redlined neighborhoods are "generally associated with worse environmental conditions and greater population vulnerability to the effects of pollution today" and that Black, Indigenous, and people of color are overrepresented in the neighborhoods that are the most environmentally degraded. They specifically discussed how California Native American Tribes continue to face barriers to accessing, controlling, and protecting water rights and disrupted traditional food sources. They also note these injustices are exacerbated by climate change and complex water resource and watershed management processes.

In the resolution, the State Water Board committed to making racial equity, diversity, inclusion and environmental justice central to its work, including improving communication, working relationships, and co management practices with all California Native American Tribes.

4) *Tribal access to clean water*. According to data from the U.S. Environmental Protection Agency (EPA), there are 88 tribal water systems in California that serve more than 160,000 people. In the State Water Board's most recent Drinking Water Needs Assessment, the EPA estimated 13 of these tribal water systems are currently in violation of state or federal drinking water standards, and 22 are at risk of violating standards in the future. Tribal drinking water systems often have a small customer base, making it difficult to support maintenance costs.

5) *Tribal Access to SAFER Funding Support*. According to the State Water Board's policy for developing the Expenditure Plan for the Fund, Native American Tribes will be prioritized in outreach, program design and funding elements of the SAFER Program. The water system needs of California Native American Tribes will be evaluated for funding based on the same criteria as other eligible recipients. All State Water Board funding agreements contain compliance obligations, such as monitoring, reporting, inspection, and accounting. In order to fund a project with a federally recognized Native American Tribe, the State Water Board may require a limited waiver of sovereign immunity strictly to ensure compliance with the terms of the financial assistance agreement.

Comments

1) *Purpose of Bill.* According to the author, "Ensuring tribes have equitable access to the SAFER Program would help California meet its promise of providing every person in the state the right to safe, clean, affordable, and accessible water."

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

According to the Senate Appropriations Committee:

- The State Water Board estimates ongoing annual costs of at least $225,000 (Safe and Affordable Drinking Water Fund) to support coordination and communication with tribes on matters relating to the Fund.

SUPPORT: (Verified 8/25/22)

Association of California Water Agencies
Clean Water Action
Community Water Center
Leadership Counsel for Justice & Accountability
Morongo Band of Mission Indians
Rincon San Luiseno Band of Indians
Tule River Tribe

OPPOSITION: (Verified 8/25/22)

None received

ASSEMBLY FLOOR: 72-0, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Mia Bonta, Mayes, O'Donnell, Blanca Rubio, Voepel

Prepared by: Jacob O'Connor / E.Q. / (916) 651-4108
8/26/22 15:47:57

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

SENATE RULES COMMITTEE AB 2879
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2879
Author: Low (D), et al.
Amended: 8/24/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-0, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, McGuire, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas, Jones

SENATE APPROPRIATIONS COMMITTEE: 6-0, 8/11/22
AYES: Portantino, Bates, Bradford, Laird, McGuire, Wieckowski
NO VOTE RECORDED: Jones

ASSEMBLY FLOOR: 55-0, 5/5/22 - See last page for vote

SUBJECT: Online content: cyberbullying

SOURCE: Author

DIGEST: This bill requires a social media platform, as defined, to disclose its cyberbullying reporting procedures in its terms of service and to have a mechanism for reporting cyberbullying that is available to individuals whether or not they have an account on the platform.

Senate Floor Amendments of 8/24/22 eliminate "student" from the title, clarify that the bill's gross revenue floor of $100 million applies to the business entity that owns the social media platform, and exclude social medial platforms whose primary function is to allow users to play video games.

ANALYSIS:

Existing federal law:

1) Provides a right to free speech and expression. (U.S. Const., 1st amend; Cal. Const., art 1, § 2.)

2) Provides that no provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider. (47 U.S.C. § 230(c)(1).)

3) Provides that no provider or user of an interactive computer service shall be held liable on account of:

   a) Any action voluntarily taken in good faith to restrict access to or availability of material that users consider to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected.

   b) Any action taken to enable or make available to content providers or others the technical means to restrict access to material described above. (47 U.S.C. § 230(c)(2).)

4) Defines "interactive computer service," for purposes of 2) and 3), as any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions. (47 U.S.C. § 230(f)(2).)

Existing state law:

1) Provides for the right of every person to freely speak, write, and publish their sentiments on all subjects, being responsible for the abuse of this right. Existing law further provides that a law may not restrain or abridge liberty of speech or press. (Cal. Const., art. I, § 2(a).)

2) Provides that a student may be suspended or expelled from an elementary or secondary school for an act of bullying, which is any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including acts of sexual harassment, hate violence, and threats or harassment, as defined, directed toward one or more pupils that has or can be reasonably predicted to have the effect of one or more of the following:

   a) Placing a reasonable pupil or pupils in fear of harm to that pupil's or those pupils' person or property.

   b) Causing a reasonable pupil to experience a substantially detrimental effect on the pupil's physical or mental health.

c) Causing a reasonable pupil to experience substantial interference with the pupil's academic performance.

d) Causing a reasonable pupil to experience substantial interference with the pupil's ability to participate in or benefit from the services, activities, or privileges provided by a school. (Ed. Code, § 48900(r)(1).)

3) Defines an "electronic act," for purposes of 2), as the creation or transmission originated on or off the schoolsite, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication, including, but not limited to, any of the following:

a) A message, text, sound, video, or image.

b) A post on a social network internet website, including posting or creating to a burn page, as defined or creating a credible impersonation of another actual pupil or a false profile for another pupil for the purpose of causing one or more of the effects in 2).

c) An act of sexual cyberbullying, as defined, which includes the dissemination or solicitation of a photograph or visual recording by a pupil to another pupil that includes the depiction of a nude, semi-nude, or sexually explicit photograph or video recording of a minor. (Ed. Code, § 48900(r)(2).)

4) Provides that a pupil cannot be suspended or expelled for an act of bullying or cyberbullying set forth in 2) unless the act is related to a school activity or school attendance occurring within a school under the jurisdiction of the superintendent of the school district or principal or occurring within any other school district, which includes being on school grounds, going to or coming from school, during the lunch period whether on or off campus, and during, or while going to or coming form, a school-sponsored activity. (Ed. Code, § 48900(s).)

This bill:

1) Establishes the Cyberbullying Protection Act.

2) Defines relevant terms as follows:

a) "Content" means statements or comments made by users and media that are created, posted, shared, or otherwise interacted with by users on an internet-based service or application. "Content" does not include media put on a

service or application exclusively for the purpose of cloud storage, transmitting files, or file collaboraton.

b) "Cyberbullying" means any severe or pervasive conduct made by an electronic act or acts, as defined in Education Code section 48900(r)(2), committed by a pupil or group of pupils directed toward one or more pupils that has or can reasonably be predicted to have the effect of one or more of (1) placing a reasonable pupil or pupils in fear of harm of their person or property, (2) causing a reasonable pupil to experience a substantially detrimental effect on the pupil's physical or mental health, (3) causing a reasonable pupil to experience substantial interference with the pupil's academic performance, or (4) causing a reasonable pupil to experience substantial interference with the pupil's ability to participate in or benefit from the services, activities, or privileges provided by a school.

c) "Social media platform" means a public or semipublic internet-based service or application that has users in California and that meets all of the following criteria:

   i) A substantial function of the service or application is to connect users in order to allow users to interact socially with each other within the service or application. A service or application that provides email or direct messaging services shall not be considered to meet this criterion on the basis of that function alone.

   ii) The service or application allows users to do all of the following:

      (1) Construct a public or semipublic profile for purposes of signing into and using the service or application.

      (2) Populate a list of other users with whom an individual shares a social connection within the system.

      (3) Create or post content viewable by other users, including, but not limited to, on message boards, in chat rooms, or through a landing page or main feed that presents the user with content generated by other users.

d) "Public or semipublic internet-based service or application" excludes a service or application used to facilitate communication within a business or enterprise among employees or affiliates of the business or enterprise, provided that access to the service or application is restricted to employees or affiliates of the business or enterprise using the service or application.

e) "Terms of service" means a public-facing policy or set of policies adopted by a social media platform that specified, at least, the user behavior and activities that are permitted on the social media platform and the user behavior and activities that result in the removal, demonetization, deprioritization, or banning of a user or an item of content.

3) Requires a social media platform to disclose all cyberbullying reporting procedures in its terms of service.

4) Requires a social media platform to establish a mechanism within its internet-based service that allows any individual, whether or not that individual has a profile on the internet-based service, to report cyberbullying or any content that violates the existing terms of service. The reporting mechanism shall allow, but not require, an individual to upload a screenshot of the content that contains cyberbullying or violates the terms of service.

5) Provides that a social media platform that fails to do 3) or 4) shall be liable for a civil penalty of up to $7,500 for each intentional violation per day that the violation was incurred, which may be recovered in a civil action brought in the name of the people of the State of California by the Attorney General. The Attorney General may also seek injunctive relief.

6) Provides that 3)-5) do not create a private right of action or limit any existing private right of action.

7) Provides that 5) and 6) do not become operative until September 1, 2023.

8) Provides that 1)-7) do not apply to:

a) A social media platform that is controlled by a business entity that generated fewer than $100 million in gross revenue in the preceding calendar year.

b) A social media platform whose primary function is to allow users to play video games.

Comments

This bill requires a social media platform, as defined, to implement a reporting mechanism for the reporting of cyberbullying and other conduct that violates the platform's terms of service. The reporting mechanism required by this bill must include two features: it must be useable by individuals who do not have an account on the platform, and it must permit, but not require, the report to include a screenshot of the problematic post. These measures are designed to make the

mechanism as useful as possible for, e.g., a parent who might not have an account on a particular platform but who wishes to protect their child. The bill also requires the social media platform to disclose in its terms of service the procedures for using the reporting mechanism.

State law regulating social media activity generally implicates two discrete constitutional issues: preemption by federal law governing when an "interactive computer service" may be held liable for third-party content (47 U.S.C. § 230, or Section 230) and the First Amendment to the United States Constitution.[1] This bill does not clearly run afoul of either. First, Section 230 is not clearly implicated because it does not make a social media platform liable for the content posted by its users—it merely requires a social media platform to provide a mechanism for reporting instances of cyberbullying and explain its cyberbullying policy. Second, with respect to the First Amendment, this bill does not restrict any speech, and its required disclosures are likely permissible in light of the state's substantial interest in protecting its children and others from cyberbullying.[2]

The most recent amendments, which exempt social media platforms with the primary function of allowing users to play video games, reflects the intent to exclude the narrow category of social media platforms that actually facilitate the playing of games socially, i.e., through the platform provided by the console. This exemption should not be interpreted to exclude platforms that often feature video game play, such as Twitch or Discord.

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

According to the Senate Appropriations Committee:

- *DOJ:* The Department of Justice (DOJ) reports costs of $342,000 in Fiscal Year (FY) 2023-24 and $390,000 annually thereafter (General Fund). This bill would also generate revenue of an unknown amount, resulting from penalty assessments of up to $7,500 for each intentional violation of this bill's provisions.

- *Judicial Branch:* Unknown cost pressures due to increased court workload (Special Fund – Trial Court Trust Fund, General Fund).

SUPPORT: (Verified 8/23/22)

Outschool

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[1] *See* U.S. Const., 1st amend,
[2] *See, e.g., Central Hudson Gas & Elec. Corp. v. Public Service Commission of New York* (1980) 477 U.S. 556, 566.

Santa Clara County Office of Education

OPPOSITION: (Verified 8/23/22)

None received

ARGUMENTS IN SUPPORT: According to the Santa Clara County Office of Education, writing in support:

> In order to mitigate the impact of bullying, school administrators need to be able to report incidents to social media companies and request that content be removed or users be sanctioned. However, most social media platforms currently do not allow those without a profile to file complaints or report inappropriate or bullying content directed at another person. These policies have made it very difficult for school administrators to respond or stop cyberbullying.
>
> AB 2879 would require social media operators to establish a mechanism that would allow school administrators to report cases of reported cyberbullying against students without a user account. It is imperative that school administrators have the tools they need as social media becomes increasingly prevalent in the daily lives of students. Left unaddressed, even for a short time frame, cyberbullying can have significant effects on a young person's mental health.

ASSEMBLY FLOOR: 55-0, 5/5/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Choi, Cooley, Cooper, Davies, Mike Fong, Friedman, Gabriel, Eduardo Garcia, Gray, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Low, Maienschein, Mathis, McCarty, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Stone, Ting, Valladares, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Bryan, Cervantes, Chen, Cunningham, Megan Dahle, Daly, Flora, Fong, Gallagher, Cristina Garcia, Gipson, Grayson, Kiley, Lackey, Levine, Mayes, Medina, Patterson, Smith, Villapudua, Voepel, Waldron

Prepared by: Allison Meredith / JUD. / (916) 651-4113
8/26/22 15:47:57

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

SENATE RULES COMMITTEE AB 2895
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2895
Author: Arambula (D)
Amended: 8/22/22 in Senate
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 7-0, 6/20/22
AYES: Stern, Jones, Allen, Eggman, Hertzberg, Hueso, Laird
NO VOTE RECORDED: Grove, Limón

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 50-19, 5/26/22 - See last page for vote

SUBJECT: Water: permits and licenses: temporary changes: water or water rights transfers

SOURCE: Author

DIGEST: This bill revises the State Water Resources Control Board's (water board) process for consideration and approval of a petition to temporarily change a water right to effectuate a short-term water transfer (i.e., for a period of one year or less).

Senate Floor Amendments of 8/22/22 make technical and grammatical changes that improve the readability of two paragraphs in the bill.

ANALYSIS: Existing law establishes the water board as the administrator the state's water rights program, under which the board grants permits and licenses to appropriate water. (Water Code (WC) §§1200 et seq.) These provisions of the WC:

1) Authorize a permittee or licensee to temporarily change the point of diversion, place of use, or purpose of use due to a transfer or exchange of water or water rights if the transfer would:

a) Only involve the amount of water that would have been consumptively used or stored by the permittee or licensee in the absence of the proposed temporary change;

b) Not injure any legal user of the water and; would

c) Not unreasonably affect fish, wildlife, or other instream beneficial uses. (WC §1725)

2) Prescribe the process for a permittee or licensee to petition the water board for a temporary change due to a transfer or exchange of water rights, and imposes on the board related notice, decision, and hearing requirements. (WC §1726)

a) Under that process, a petitioner is required, among other things, to:

i) Provide a copy of the petition to the Department of Fish and Wildlife (DFW), the board of supervisors of the county or counties in which the petitioner currently stores or uses the water subject to the petition, and the board of supervisors of the county or counties to which the water is proposed to be transferred. (WC §1726(c))

ii) Publish notice of a petition in a newspaper. (WC §1726(d))

b) Under that process the water board, with certain exceptions, is require to render a decision not more than 35 days after the date the investigation began or the date the notice was published. (WC §1726(g))

i) If the water board or the petitioner determines that an additional extension of time for a decision is necessary for the board to make the required findings, or that a hearing is necessary for the board to make those findings, the board may extend the time for a decision with the consent of the petitioner.

ii) If the petitioner agrees to a hearing, the water board shall identify the issues for which additional evidence is required and shall fix a time and place for the hearing.

3) Authorize a person entitled to the use of water to petition the water board for a change to a water right for purposes of preserving or enhancing wetlands habitat, fish and wildlife resources, or recreation and authorizes the board to approve the petition only if certain requirements are met. (WC §1707) Further authorizes that petition to be submitted in accordance with specified

requirements, including those regulating temporary changes due to a transfer or exchange of water rights.

This bill:

1) Revises and recasts the provisions regulating temporary changes due to a transfer or exchange of water rights, including,

   a) Eliminating the requirement that a petitioner publish notice of a petition in a newspaper.

   b) Specifying that those provisions apply to a person who proposes a temporary change for purposes of preserving or enhancing wetlands habitat, fish and wildlife resources, or recreation.

   c) Making other technical and conforming changes.

2) Establishes a new process for petitions for which notice is submitted to the water board no later than January 31 for a temporary change due to a transfer or exchange of water rights initiated in the same year, and would impose on the board related notice, decision, and hearing requirements.

   a) Under this new process, the water board would be required, among other things, to post on its internet website and disseminate by email LISTSERV by February 15 of each year a list of all timely and complete notices for which notice is filed.

   b) By March 1 of each year, an interested person would be able to request notice of a submitted petition for temporary change, and the concerns related to effects on other legal users, fish, wildlife, instream beneficial uses, or groundwater conditions the person may raise in comments on the petition.

   c) After submittal of a complete petition, the water board would be required to provide notice of the petition by sending a copy to all persons who submitted complete requests under subdivision (d), posting the petition on its internet website, and disseminating the petition by email LISTSERV. Any interested party may file a written comment on the petition not later than 30 days after submittal of a complete petition.

   d) The water board would be required to issue a decision within 35 days after submittal of a complete petition for which notice is provided under these provisions, with certain exceptions.

Comments

Notice by Publication. While most water agencies appreciate the elimination of newspaper notice, the California News Publishers Association does not. That said, newspapers, especially paper newspapers, are much rarer than they used to be. Since the notice is going on the water board's website, that's a much more reliable source of information than a notice in the paper. This is especially true in a location where there are may still be multiple papers, so an interested person would have to scour all the papers on a daily basis for water notices instead of just checking online.

Not Clear Many Will Use the New Process. This new process will require water rights holders to notify the water board by January 31 that they have water they are willing to transfer. Things can change a lot between January 31 and the end of the traditional rain and snow season. As evidenced by this year, what at first looks like is going to be a wet year can quickly change. Nonetheless, there is probably no harm in setting up this new process.

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

SUPPORT: (Verified 8/23/22)

Sustainable Conservation

OPPOSITION: (Verified 8/23/22)

California News Publishers Association

ARGUMENTS IN SUPPORT: According to the author, "As California's climate becomes more extreme, water transfers are effective means to provide drought resiliency throughout the state. Efficient review and approval by the State Water Board are needed to ensure that water transfers can be successfully executed. Unfortunately, current requirements for processing temporary transfer petitions cause delays both for the petitioner and Water Board. AB 2895 will allow California to adapt to evolving drought conditions more effectively by modernizing and streamlining the water transfer petition process. This bill also improves communication between impacted agencies and increases accessibility of transfer petition information by the public."

ARGUMENTS IN OPPOSITION: The California News Publishers Association writes, "AB 2895 sets a dangerous precedent by dismissing a public notice statutory scheme in effect since 1943 and today spans more than 1,700 sections of code. The term 'newspaper of general circulation' is a term of art that applies only

to printed publications that have been legally deemed to distribute substantially to subscribers in the area.

“Newspapers of general circulation remain the most effective means to convey public notices because they are legally deemed to reach a “substantial” number of readers in the area. To pass a bill with language that indicates there could be a newspaper of general circulation online would open the door to changes in this entire statutory scheme informing the public of important information since 1943.”

ASSEMBLY FLOOR: 50-19, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Cooley, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Kiley, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Berman, Choi, Cooper, Daly, Grayson, Lackey, Mayes, O'Donnell, Villapudua

Prepared by: Dennis O'Connor / N.R. & W. / (916) 651-4116
8/23/22 13:23:17

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

SENATE RULES COMMITTEE AB 2910
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2910
Author: Santiago (D) and Wicks (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-2, 6/22/22
AYES: Allen, Eggman, Gonzalez, Skinner, Stern
NOES: Bates, Dahle

SENATE JUDICIARY COMMITTEE: 9-1, 6/28/22
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, McGuire, Stern, Wieckowski, Wiener
NOES: Jones
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 52-17, 5/26/22 - See last page for vote

SUBJECT: Nonvehicular air pollution: civil penalties

SOURCE: Author

DIGEST: This bill increases the maximum civil penalties for air pollution violations, including tripling the lowest penalty caps for strict liability, and makes certain specifications on which moneys are affected and how they must be spent.

Senate Floor Amendments of 8/25/22 narrow the provisions of the bill which apply to uses for the penalties collected by air districts pursuant to only certain regions and thresholds.

ANALYSIS:

Existing law:

1) Requires air districts to adopt and enforce rules and regulations to achieve and maintain state and federal ambient air quality standards in all areas affected by non-vehicular emission sources under their jurisdiction. (Health and Safety Code (HSC) § 40000 et seq.)

2) Generally prohibits a person, except as specified, from discharging air contaminants or other material that cause injury, detriment, nuisance, or annoyance or endanger the comfort, repose, health or safety to any considerable number of persons, or to the public, or that cause, or have a tendency to cause, injury or damage to a business or property. (HSC § 41700)

3) Authorizes the governing board or the hearing board of an air district, after notice and a hearing, to issue an order for abatement whenever it finds that any person is constructing or operating any article, machine, equipment, or other contrivance without a required permit, or is in violation of any order, rule, or regulation prohibiting or limiting the discharge of air contaminants into the air. (HSC § 42300 et seq.)

4) Deems any person who violates air pollution laws, rules, regulations, permits, or orders of the Air Resources Board (ARB) or of a district, including a district hearing board, as specified to be guilty of a misdemeanor and subject to specified fines, imprisonment in the county jail for not more than six months, or both. (HSC § 42400 et seq.)

5) Prescribes maximum civil penalty amounts for violations as follows (HSC § 42400 et seq.):

    a) Strict liability: $5,000, $10,000 or $15,000 per day, depending on specified circumstances. Penalties in excess of $5,000 permit an affirmative defense that the violation was caused was not intentional or negligent. The $15,000 level applies when a violation causes actual injury to a considerable numbers of persons or the public.
    b) Negligent: $25,000 per day, or $100,000 if the violation causes great bodily injury or death.
    c) Knowing: $40,000 per day, or $250,000 if the violation causes great bodily injury or death.

d) Willful and intentional: $75,000 per day.
e) Willful, intentional, or reckless: $125,000 per day for a person, or $500,000 for a corporation, if the violation results in an unreasonable risk great bodily injury or death. $250,000 for a person, or $1,000,000 for a corporation, if the violation causes great bodily injury or death.
f) Intentional falsification of a required document: $35,000.

6) Requires the maximum penalties in effect January 1, 2018 to increase annually based on the California Consumer Price Index. (HSC § 42411)

7) Specifies that the recovery of certain civil penalties precludes prosecution for the same offense. (HSC § 42400.7)

8) Requires that, in determining the amount of penalty assessed, that the extent of harm, nature and persistence of violation, length of time, frequency of past violations, the record of maintenance, the unproven nature of the control equipment, actions taken by the defendant to mitigate the violation and the financial burden to the defendant be taken into consideration. (HSC § 42400.8)

9) Establishes the Air Pollution Control Fund within the General Fund to act as a depository for penalties and fees collected on vehicular and nonvehicular air pollution control sources, and to be available ARB to carry out its duties and functions. (Chapter 1063, Statutes of 1976)

This bill:

1) Increases specified strict liability civil penalties for the violation of the state's air pollution laws or any rule, regulation, permit, or order of a local air district, including a district hearing board, or of the Air Resources Board (ARB) from $5,000 to $15,000.

2) Increases specified strict liability civil penalties for the violation of the state's air pollution laws or any rule, regulation, permit, or order of a local air district, including a district hearing board, or of ARB from $15,000 to $45,000 if the unlawful emission causes actual injury to the health and safety of a considerable number of persons or the public.

3) Increases the civil penalties imposed on a person or entity that negligently emits an air contaminant in violation of the state's air pollution laws or a rule, regulation, permit, or order of the state board or of a district, including a

district hearing board, pertaining to emission regulations or limitations from $25,000 to $35,000.

4) Provides that any moneys collected from a penalty assessed pursuant to this bill above the costs of prosecution, district administration, investigation, attorney fees, and other reasonable district costs are to be used to mitigate air pollution in the community or communities affected by the violation. Further specifies that these penalty provisions only apply to:
   a) Penalties assessed by the Bay Area Air Quality Management District, the Sacramento Metropolitan Air Quality Management District, the San Diego County Air Pollution Control District, the San Joaquin Valley Unified Air Pollution Control District, or the South Coast Air Quality Management District;
   b) The amount of the penalty exceeds $10,000; and
   c) The penalty is assessed for a violation of law that occurred in a disadvantaged community, as defined.

5) Provides that the penalties assessed pursuant to this bill are to be annually changed based on the California Consumer Price Index as compiled and reported by the Department of Industrial Relations.

Background

1) *Penalties for violating air pollution standards*. California's non-vehicular air pollution statutes provide for civil penalties for violations of air pollution standards. Penalties are assessed based on the number of days of violation and the intent of the violator. In the absence of evidence to indicate negligence or worse (i.e., knowledge and failure to correct or willful and intentional behavior), civil penalties are assessed at penalty ceilings for the strict liability classification, where the violation is found to occur but districts need not establish knowledge, negligence, intent or injury. No minimum penalty is required, leaving the amount prosecuted at the discretion of the air district. Offenses are most often prosecuted under the strict liability standard, which is generally capped at $10,000 per day. However, when districts seek more than $5,000 per day, an affirmative defense that the act was not intentional or negligent is allowed.

   In 2017, AB 617 (C. Garcia), Chapter 136, Statutes of 2017, increased the basic strict liability penalty cap from $1,000 per day to $5,000 per day (accounting for 42 years of inflation since the limits were established in 1975).

AB 617 also added an inflation adjustment for all civil penalties, with the amounts in effect in 2018 as the baseline.

Comments

1) *Purpose of Bill.* According to the author, "While some Californians wake up to the smell of fresh air or the ocean breeze, my constituents wake up to the harsh odors of flesh and carcass. For decades, many of my constituents and Southeast Los Angeles communities have had to deal with smells from rendering plants that are strong, rancid, and nauseating. These communities have voiced concerns of these harmful and bothersome odors from local rendering facilities and the SCAQMD has increased their efforts to address these issues from noncompliant rendering plants. Unfortunately, the current maximum civil penalties against facilities that violate air quality standards is only $10,000 per day per violation, which is an inadequate deterrent. While significant to a small, family-run company, that sum has very little deterrent value to the prototypical large, well-funded corporate violator. Large facilities simply chalk it up as the cost of doing business and do not make meaningful changes. To ensure we do not further harm environmental justice communities and that improve enforcement of air pollution and air quality laws, AB 2910 will increase the maximum penalty amount for all facilities under SCAQMD's jurisdiction who violate air pollution rules."

2) *Where does the money go?* As introduced, AB 2910 required any moneys collected pursuant to the increased penalty to be expended in support of air quality programs. Amendments taken in the Assembly further focused that provision to require civil penalties collected (above the costs of prosecution, district administration, investigation, attorney fees, and other reasonable district costs) to be expended to mitigate the effects of air pollution in the communities affected by the violation.

   Regarding penalty funds more generally, HSC § 42405 prescribes where penalty funds are deposited:
   a) When the Attorney General brings an action on behalf of a district, the penalty collected is split 50/50 between the district and the General Fund.
   b) When the Attorney General brings an action on behalf of ARB, the entire penalty collected goes to the General Fund.
   c) When the action is brought by the district itself, or by a district attorney, the entire penalty collected goes to the district.

For AB 2910, it should be noted that the violations for which penalties are collected need not necessarily be from a single point source. For example, if a specific product were found to be noncompliant with an air district rule, the manufacturer could be assessed a penalty. However, the question of which specific communities were affected by that violation (and thus required to have mitigation actions taken on their behalf) could be much more difficult than if the violator were, say, a single refinery.

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

According to the Senate Appropriations Committee, "Unknown but likely minor costs for the California Air Resources Board to absorb workload from or provide funding to the air districts in order to backfill any reductions in penalty revenue for district operations."

SUPPORT: (Verified 8/25/22)

Bay Area Air Quality Management District
South Coast Air Quality Management District

OPPOSITION: (Verified 8/25/22)

California Air Pollution Control Officers Association
California Council for Environmental & Economic Balance

ARGUMENTS IN SUPPORT: According to the South Coast Air Quality Management District, "Strict liability is the most frequently used level of civil penalties in enforcement efforts; however, those penalty amounts are so low, they constitute essentially a "cost of doing business" for violators. While potentially significant to a small, family-run company, the current civil penalties for air quality violations have very little deterrent value to the prototypical large, well-funded corporate violator.

"For example, there are several rendering plants in Los Angeles County that have created terrible smells which impact surrounding communities. One such facility, Baker Commodities in the City of Vernon, has received numerous Notices of Violation. Despite being subject to repeated enforcement action, South Coast AQMD's investigation of a large odor event in January 2022 led to Baker Commodities again being found in violation of the agency's Rule 415 for failure to process or enclose raw material within four hours of receiving it. The current statutory penalty system must be strengthened to deter these kinds of repeated air quality violations.

"Similar noncompliance has been found at other types of facilities, including oil and gas drilling operations; construction sites/stockpiles and transfer stations; landfills (active and closed); waste treatment plants; industrial operations (making solvents, distilling alcohol, etc.); natural gas storage facilities; and power plants. Many of these facilities are located in or near our most vulnerable communities."

ARGUMENTS IN OPPOSITION: According to the California Council for Environmental and Economic Balance, "AB 2910 proposes penalties on violations that have already been increased, and indexed for inflation, in the companion bill to the legislation that extended the Cap-and-Trade Program during a prior legislative session. Maximum penalties assessed by the state board or a district pursuant to AB 617 (Chapter 136, Statutes of 2017) as of January 1, 2018, shall be increased annually based on the California Consumer Price Index as compiled and reported by the Department of Industrial Relations.

CCEEB members recognize the valuable role that incentive-based compliance programs play in meeting air quality objectives and protecting public health. However, CCEEB does not support the unsubstantiated assertion that increased penalties will improve compliance and reduce accidental releases. We are concerned that increasing penalties could unduly punish facilities for implementing critical process safety measures. We are also concerned that the new penalty ceiling amounts strongly encourage districts to disregard cooperative, incentive-based compliance programs in favor of more dollar-based and revenue-generating penalties."

ASSEMBLY FLOOR: 52-17, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Davies, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Cunningham, Megan Dahle, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Salas, Seyarto, Smith, Voepel, Waldron

NO VOTE RECORDED: Berman, Choi, Daly, Gray, Grayson, Mayes, O'Donnell, Valladares, Villapudua

Prepared by: Eric Walters / E.Q. / (916) 651-4108
8/26/22 15:47:58

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

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

THIRD READING

Bill No: AB 2912
Author: Berman (D)
Amended: 8/18/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 6/14/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

ASSEMBLY FLOOR: 68-0, 5/16/22 - See last page for vote

SUBJECT: Consumer warranties

SOURCE: Author

DIGEST: This bill prohibits a manufacturer, distributor, or retail seller from making an express warranty with respect to a consumer good that commences earlier than the date of delivery of the good.

Senate Floor Amendments of 8/18/22 narrow the application of the bill.

ANALYSIS:

Existing law:

1) Establishes the Song-Beverly Consumer Warranty Act (Act), which sets forth standards for warranties that govern consumer goods and outlines remedies available to purchasers. (Civ. Code § 1790 et seq.)

2) Requires every sale of consumer goods that are sold at retail in this state to be accompanied by the manufacturer's and the retail seller's implied warranty that the goods are merchantable. (Civ. Code § 1792.)

3) Provides that where a retailer or distributor has reason to know at the time of the retail sale that the goods are required for a particular purpose, and that the

buyer is relying on the manufacturer's, retailer's, or distributor's skill or judgment to select or furnish suitable goods, the sale shall be accompanied by the relevant entity's implied warranty that the goods are fit for that purpose. (Civ. Code §§ 1792.1, 1792.2.)

4) Provides that such implied warranties cannot be disclaimed or waived, except as specifically provided. (Civ. Code §§ 1792.3, 1792.4.)

5) Provides that, except as specified, nothing in the Act affects the right of the manufacturer, distributor, or retailer to make express warranties with respect to consumer goods. However, a manufacturer, distributor, or retailer, in transacting a sale in which express warranties are given, may not limit, modify, or disclaim the implied warranties guaranteed by this chapter to the sale of consumer goods. (Civ. Code § 1793.)

6) Requires every manufacturer, distributor, or retailer making express warranties with respect to consumer goods to fully set forth those warranties in simple and readily understood language, which shall clearly identify the party making the express warranties, and which shall conform to applicable federal standards. (Civ. Code § 1793.1.)

7) Defines "express warranty" to mean a written statement arising out of a sale to the consumer of a consumer good pursuant to which the manufacturer, distributor, or retailer undertakes to preserve or maintain the utility or performance of the consumer good or provide compensation if there is a failure in utility or performance. In the event of any sample or model, an express warranty is that the whole of the goods conforms to such sample or model. (Civ. Code § 1791.2.)

8) Provides, pursuant to federal law, that any warrantor warranting to a consumer by means of a written warranty a consumer product actually costing the consumer more than $15.00 shall clearly and conspicuously disclose, among other things, the point in time or event on which the warranty term commences, if different from the purchase date, and the time period or other measurement of warranty duration. (16 C.F.R. Sec. 701.3(a)(4).)

This bill prohibits a manufacturer, distributor, or retail seller from making an express warranty with respect to a consumer good that commences earlier than the date of delivery of the good. It does not limit an express warranty made before July 1, 2023.

Background

The Song-Beverly Consumer Warranty Act provides consumer warranty protection to buyers of consumer goods, including motor vehicles, home appliances, and home electronic products. The Act requires certain implied warranties to accompany the retail sale of consumer goods. This includes implied warranties of merchantability and of fitness for particular purposes, as specified.

Express warranties are written statements arising out of a sale to the consumer of a consumer good pursuant to which the manufacturer, distributor, or retailer undertakes to preserve or maintain the utility or performance of the consumer good or provide compensation if there is a failure in utility or performance. Concerns have arisen that the increase in e-commerce and more recently the severe supply chain delays have undercut the utility of these warranties for consumers.

This bill prohibits any express warranties regarding consumer goods made by a manufacturer, distributor, or retail seller from starting earlier than the date of delivery of the good.

This bill is author sponsored. It is supported by a variety of consumer advocacy groups, including the Consumer Federation of California and the California Public Interest Research Group. There is no known opposition.

Comments

Consumer good warranties

The Song-Beverly Consumer Warranty Act sets forth standards for warranties that govern consumer goods and outlines remedies available to purchasers. Retail sales of consumer goods are accompanied by the manufacturer's and the retail seller's implied warranty that the goods are merchantable. In specified circumstances, an implied warranty that the good is fit for a particular purpose also attaches. Such implied warranties can generally not be waived or otherwise modified except in limited, specified circumstances.

Express warranties are additional warranties that can be expressed by a manufacturer, distributor, or retailer in connection with the sale of consumer goods. They commit the entity to preserving or maintaining the utility or performance of the relevant good, or compensation if such warranty fails. Unlike implied warranties, they must be written statements as to their scope and application, pursuant to the Act.

At the federal level, the Magnuson-Moss Warranty Act requires entities providing express warranties to fully and conspicuously disclose in simple and readily understood language the terms and conditions of such a warranty. (15 U.S.C. § 2301 et seq.) The Federal Trade Commission (FTC) is empowered to promulgate regulations to carry out the act. However, the FTC is expressly prohibited from prescribing the duration of written warranties given or to require that a consumer product or any of its components be warranted at all.

FTC regulations require a series of disclosures in connection with express warranties on consumer products costing more than $15. This includes clear language indicating the point in time or event on which the warranty term commences, if different from the purchase date, and the time period or other measurement of the warranty duration. (16 C.F.R. § 701.3.)

Concerns have arisen that initiating such warranties at the point of purchase undermines their utility for consumers when the consumer does not receive the good at that point. The author and supporters highlight two conditions that make it increasingly likely that there are lag times between purchase and receipt, thereby affecting the value of these warranties. The first is the dramatic rise in e-commerce.

According to the United States Department of Commerce, e-commerce constituted 19.1 percent of all retail sales in 2021, increasing 50.5 percent since 2019, with Amazon accounting for more than 40 percent of all e-commerce in the country.[1] Inherently, when a consumer buys a consumer good online there is some delay before they receive that good. If a relevant one-year consumer warranty begins when the "buy" button is clicked and the good does not arrive for several months, the warranty is of fractional value. A Los Angeles Times article documented consumer frustrations with this lost time, quoting one regarding a warranty on his Whirlpool dryer: "What if you're remodeling your house and don't receive an appliance for six months? […] Have you lost half your warranty?"[2]

The second condition is the recent, widespread disruption of the global supply chain:

> Covid-19 has left one very destructive economic issue in its wake: disruption to global supply chains.

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[1] Jessica Young, *US ecommerce grows 14.2% in 2021* (February 18, 2022) *Digital Commerce 360*, https://www.digitalcommerce360.com/article/us-ecommerce-sales/. All internet citations are current as of May 28, 2022.

[2] David Lazarus, *Warranties usually start on purchase date, not delivery date* (February 9, 2015) Los Angeles Times, https://www.latimes.com/business/la-fi-lazarus-20150210-column.html.

> The rapid spread of the virus in 2020 prompted shutdowns of industries around the world and, while most of us were in lockdown, there was lower consumer demand and reduced industrial activity.
>
> As lockdowns have lifted, demand has rocketed. And supply chains that were disrupted during the global health crisis are still facing huge challenges and are struggling to bounce back.
>
> This has led to chaos for the manufacturers and distributors of goods who cannot produce or supply as much as they did pre-pandemic for a variety of reasons, including worker shortages and a lack of key components and raw materials.[3]

If warehouses and retailers are less likely to have desired products in stock at the time of purchase, the delay between purchase and delivery are likely to only get longer and longer, further undermining consumer warranties.

Enhancing express warranties for consumers

While FTC regulations set the default starting point for express warranties at the purchase of the consumer good, California law, namely the Song-Beverly Act, does not generally dictate when such warranties take effect. There are exceptions for certain wheelchairs, assistance devices, and hearing aids. These warranties are required to take effect upon receipt or delivery to the consumer. (Civ. Code §§ 1793.02. 1793.025.)

This bill prohibits a manufacturer, distributor, or retail seller from making an express warranty with respect to a consumer good that commences earlier than the date of delivery of the good. This applies prospectively and provides a buffer period for industry. It explicitly provides that it does not limit an express warranty made before July 1, 2023.

According to the author:

> Unfortunately, when a warranty effective date starts at the time of purchase, the consumer may not receive the full benefit or duration of the warranty if delivery of the product takes days, weeks, or even months to arrive. This was a problem prior to the pandemic and current supply chain issues, but has only grown more apparent. For example, if an express warranty is good for one year, but the consumer does not receive the product for six months, then the

[3] Holly Ellyatt, *Supply chain chaos is already hitting global growth. And it's about to get worse* (October 18, 2021) CNBC, https://www.cnbc.com/2021/10/18/supply-chain-chaos-is-hitting-global-growth-and-could-get-worse.html.

consumer has essentially lost half of the warranty. AB 2912 would require express warranties to start no earlier than the date of delivery of the product rather than the date of purchase. It is important to point out that that there is precedent for having warranties begin on the delivery date. Carpet installers, for example, typically operate this way and a European warranty begins when a product is received, not purchased. Additionally, according to state law, the duration of warranties for wheelchairs and hearing aids already start from the date of delivery. AB 2912 is a common sense consumer protection bill that builds upon existing law.

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

SUPPORT: (Verified 8/17/22)

California Low-Income Consumer Coalition
California Public Interest Research Group
Consumer Attorneys of California
Consumer Federation of California
Consumer Protection Policy Center at University of San Diego School of Law
Consumer Watchdog
Housing and Economic Rights Advocates
Public Law Center

OPPOSITION: (Verified 8/17/22)

None received

ARGUMENTS IN SUPPORT: The California Low-Income Consumer Coalition argues:

When a warranty's effective date starts at the time of purchase, the consumer may not receive the full benefit of the warranty. This was a problem prior to the pandemic and current supply chain issues, but has grown more apparent with products being delayed weeks if not months. For example, if an express warranty is good for one year, but the consumer does not receive the product for six months, then the consumer has essentially lost half of the warranty period.

It is important to point out that there is precedent for having warranties begin on the delivery date. Carpet installers, for example, typically operate this way and a European warranty begins when a product is received, not purchased.

ASSEMBLY FLOOR: 68-0, 5/16/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Flora, Mike Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Cunningham, Fong, Kiley, Low, Muratsuchi, Nazarian, Quirk-Silva, Blanca Rubio, Ting, Valladares

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
8/26/22 16:11:39

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2921
Author: Santiago (D)
Amended: 8/25/22 in Senate
Vote: 21

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

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 73-0, 5/25/22 (Consent) - See last page for vote

SUBJECT: Alcoholic beverages

SOURCE: Author

DIGEST: This bill requires the Alcoholic Beverage Control Appeals Board (Board) to enter its order within 60 days after an appeal is submitted for decision.

Senate Floor Amendments of 8/25/22 clarify when the Board must enter its order.

ANALYSIS:

Existing law:

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

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

3) Permits a manufacturer, winegrower, rectifier, distiller, distilled spirits wholesaler, or any agent of those licensees to conduct market research.

4) Prohibits a retail premises from participating in more than one research project, as specified, during a calendar year and authorizes a research project to involve multiple onsite surveys.

5) Establishes the Board to review the Department ABC's decisions ordering penalty assessments and issuing, denying, transferring, suspending, or revoking a license, as specified.

6) Prescribes a process pursuant to which an alcoholic beverage licensee may appeal a final determination of the Department of ABC imposing a penalty assessment or affecting a license to the Board. In this regard, the Board is required to enter its order within 60 days after the filing of an appeal.

This bill:

1) Requires the Board to enter its order within 60 days after an appeal is submitted for decision.

2) Makes clarifying and technical changes to the Department of ABC to licensees who conduct market research, including specifying that surveys, as stated, are to gather feedback.

Background

Purpose of this bill. According to the author's office, "this bill makes a minor, non-controversial changes to statute relating to ABC licensees who conduct market research. The bill fixes an oversight in current law by stating that when a retail premise is used by an ABC licensee, the research project may involve multiple onsite surveys that can be sued to gather feedback."

Additionally, the author's office states that, "this bill attempts to address a growing concern by the alcohol industry, law enforcement, and citizens relating to the period upon which an appeal is rendered by the Board. ABC's enforcement

activities have increased in response to legislative mandates to curtail underage drinking, which has led to more rulings and, in turn, the number of appeals to the Board has increased. The author is concerned with the length of time it is taking to process the appeals. In many cases, it has been reported that an extended period of time passes before the Board renders a final order. The author notes while the case is being reviewed the "bad actors" continue to operate which troubles law enforcement and residents within the community. The goal of this measure is to expedite the process for all involved parties."

ABC Appeals Board. The Board was created by the California Constitution effective January 1, 1955. The Board consists of three members appointed by the Governor. The Board provides quasi-judicial administrative review of decisions of ABC. The questions that may be considered by the Board are limited by the California Constitution and by statute.

The Board determines appeals solely on the record of the Department of ABC and any briefs filed by the parties. No additional evidence may be received by the Board. However, the parties to appeals may present oral argument during the Board's monthly hearings. The Board issues written decisions with orders affirming, reversing, and/or remanding the Department of ABC decisions. Judicial review of the Board's order may be obtained by filing a petition for writ of review with the California Supreme Court or the Court of Appeal.

The timely issuance of orders by the Board is a critical part of the state's regulation of the alcoholic beverage industry and enforcement of the Act. When an appeal is filed, any action by the Department of ABC on its decision is stayed until the appeal is concluded by a final order of the Board. During the appeal period, a license that is subject to the appeal may not be suspended or revoked; in the case of an application for a license, the Department of ABC may not issue or transfer the license while the process is in effect.

Filing Process. Licensees must notify the Board that they are appealing a decision of the Department of ABC by filing a document with the Board. The appeal document must be filed at the Board office within 40 days from the date of the Department of ABC's decision. However, if the Department of ABC's decision states it is to be "effective immediately," a licensee must file an appeal within 10 days after the date of the decision.

Related/Prior Legislation

AB 1589 (Assembly Governmental Organization Committee, Chapter 306, Statutes of 2021) authorized the electronic filing of appeals to the Board and electronic delivery of final orders by the Board. Additionally, the bill clarified that a licensed retailer is not obligated to buy or sell alcoholic beverage products of a distilled spirits wholesaler when selling marketing date to that wholesaler.

AB 1429 (Assembly Governmental Organization Committee, Chapter 567, Statutes of 2001) authorized, among other things, various licensed entities to conduct market research and, in connection with that research, to purchase from licensed on-sale retailers' data, regarding the purchases and sales of alcoholic beverage products, at the customary rates that those retailers sell similar data for nonalcoholic beverages products.

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

According to the Senate Appropriations Committee, indeterminate, potentially significant fiscal impact to the ABC Appeals Board to the extent that the Board may need additional resources to comply with the new deadline to issue an order after the filing of an appeal. Potential costs would include, among other things, workload related to processing appeals on a specific timeframe and conducting more frequent Board meetings.

As the ABC Appeals Board is independent from the Department of ABC, the Department does not anticipate a direct fiscal impact from the bill. The Department of ABC notes that if licensing and enforcement matters are delayed due to the lengthier appeals deadline, the bill may result in a larger case file for matters in which the Department may need to participate in appeals before the Court of Appeals or the California Supreme Court.

SUPPORT: (Verified 8/11/22)

None received

OPPOSITION: (Verified 8/11/22)

None received

ASSEMBLY FLOOR: 73-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley,

Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Berman, Bloom, Irwin, O'Donnell, Blanca Rubio

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
8/26/22 15:47:59

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

Office of Senate Floor Analyses
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CONSENT

Bill No: AB 2925
Author: Cooper (D)
Amended: 8/25/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 10-0, 6/29/22
AYES: Pan, Melendez, Eggman, Grove, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Gonzalez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 68-0, 5/25/22 - See last page for vote

SUBJECT: California Cannabis Tax Fund: spending reports

SOURCE: Author

DIGEST: This bill requires the Department of Health Care Services (DHCS) to provide the Legislature specified spending reports of funds from the Youth Education, Prevention, Early Intervention and Treatment Account (YEPEITA).

Senate Floor Amendments of 8/25/22 move the provisions in this bill to a different paragraph to avoid a conflict with AB 195 (Assembly Budget Comittee, Chapter 56, Statutes of 2022), the cannabis trailer bill.

ANALYSIS: Existing law creates the YEPEITA, pursuant to the 2016 ballot initiative, the Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA), or Proposition 64, to be administered by DHCS for programs for youth that are designed to educate about and to prevent substance use disorders (SUDs), and to prevent harm from substance abuse. [RTC §34019]

This bill:

1) Requires DHCS, on or before July 10, 2023, to provide the Legislature a spending report of funds from the YEPEITA for the 2021-22 and 2022-23 fiscal years.

2) Requires DHCS, on or before July 10, 2024, and annually thereafter, to provide to the Legislature a spending report of funds from the YEPEITA for the prior fiscal year.

Comments

1) *Author's statement.* According to the author, as the cannabis industry continues to grow and revenues collected from the excise taxes on cannabis continue to increase, this bill will carve out a larger role for the Legislature in the oversight of cannabis tax revenue expenditures.

2) *AUMA.* In November 2016, voters passed AUMA, which, among other things, allocates 60% of taxes on marijuana, by July 15 of each fiscal year beginning in 2018-19, to the YEPEITA to be administered by DHCS for programs for youth that are designed to educate about and to prevent substance use disorders and to prevent harm from substance abuse. AUMA requires DHCS to enter into interagency agreements with the California Department of Public Health and California Department of Education to implement and administer programs that emphasize accurate education, effective prevention, early intervention, school retention, and timely treatment services for youth and their families and caregivers. Programs are permitted to include components such as:

    a) Prevention and early intervention services to recognize and reduce risk factors related to substance use and the early signs of problematic use and of substance use disorders;
    b) Grants to schools to develop and support student assistance programs to prevent and reduce substance use, improve school retention and performance, support students who are at risk of dropping out of school, and promote alternatives to suspension and expulsion;
    c) Grants to programs for outreach, education, and treatment for homeless youth and out-of-school youth with substance use disorders;
    d) Access and linkage to care provided by county behavioral health programs for youth and their families and caregivers who have SUDs or are at risk of developing an SUD; and,

e) Youth-focused SUD programs that are culturally and gender competent, trauma-informed, evidence-based, and provide a continuum of care, as specified.

AUMA contains a provision that prohibits the Legislature, prior to July 1, 2028, from changing the allocation to DHCS from the YEPEITA from its stated purposes.

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

SUPPORT: (Verified 8/26/22)

None received

OPPOSITION: (Verified 8/26/22)

None received

ASSEMBLY FLOOR: 68-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Daly, Davies, Flora, Mike Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Megan Dahle, Fong, Kiley, Nguyen, O'Donnell, Patterson, Seyarto, Smith, Voepel

Prepared by: Reyes Diaz / HEALTH / (916) 651-4111
8/26/22 15:47:59

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

SENATE RULES COMMITTEE AB 2956
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2956
Author: Committee on Transportation
Amended: 8/22/22 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 17-0, 6/28/22
AYES: Newman, Bates, Allen, Archuleta, Becker, Cortese, Dahle, Dodd, Hertzberg, Limón, McGuire, Melendez, Min, Rubio, Skinner, Wieckowski, Wilk

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 72-0, 5/19/22 (Consent) - See last page for vote

SUBJECT: Transportation

SOURCE: Author

DIGEST: This bill is the annual transportation omnibus bill to make noncontroversial and minor changes to provisions of law related to transportation.

Senate Floor Amendments of 8/22/22 add language to prevent chaptering out with provisions of AB 2496 (Petrie-Norris).

ANALYSIS: Existing law includes numerous provisions related to transportation.

This bill:

1) Updates federal program references for the Active Transportation Program.

2) Updates the reference of required motorcycle range and street instruction to be under the guidance of the California Motorcyclist Safety Program.

3) Makes numerous changes for federal conformity regarding the operation of commercial vehicles and enforcement by the California Highway Patrol.

4) Clarifies process for when a license issued by the Department of Motor Vehicles (DMV) is automatically cancelled if the licensee's seller's permit is suspended, revoked, or canceled by the California Department of Tax and Fee Administration (CDTFA).

5) Updates a subsection reference for valid permitting to operate a motor vehicle.

6) Deletes obsolete references to "household goods carriers" and the Public Utilities Commission and replaces them with "household movers," and Department of Consumer Affairs and updates appropriate cross references.

7) Updates the testing standard of vehicular exhaust systems in accordance with the most current Society of Automotive Engineers (SAE) International standard.

8) Deletes obsolete reference in the Vehicle Code regarding the New Motor Vehicle Board (Board).

9) Contains language to prevent chaptering out with provisions of AB 2496 (Petrie-Norris).

Comments

1) *Purpose*. The Assembly Transportation Committee is authoring this year's transportation omnibus bill as a cost-effective way of making a number of minor, non-controversial changes to statute at one time. There is no known opposition to any of the items in the bill. If issues arise that cannot be resolved, the provision of concern will be deleted from the bill.

2) *Updates*. AB 2956 includes the following provisions, with the proponent of each provision noted in brackets:

   - Federal program references for the Active Transportation Program are out of date. The Transportation Alternatives Program (TAP) and Recreational Trails Program have been eliminated as individual programs and consolidated into the Surface Transportation Block Program under Section 133(h) of Title 23 of the U.S. Code. The entire TAP program (referred to in code as the "STP set-aside") is under Section 133(h) and the recreational trails portion of the program is under Section 133(h)(5). *This section updates the state highway code to reference Section 133(h) of Title 23 of the U.S. Code.* [Metropolitan Transportation Commission]

- The California Motorcyclists Safety Program, administrated by the California Highway Patrol, is the only official range and street teaching motorcycle driving instruction certified by the State. *This section updates the required motorcycle range and street instruction and to be under the guidance of the Motorcycle Safety Foundation California Motorcyclists Safety Program.* [ABATE of California, Motorcyclists Rights & Safety Organization]

- Numerous sections of the California Vehicle Code (CVC) contain outdated references to federal code. *To maintain consistency with federal mandates, this section:*
    a) Amends Section 2400 of the CVC, which applies to size and weight certification.

    b) Amends Section 2800 of the CVC, which relates to vehicle inspection requirements.

    c) Amends Section 2813 of the CVC, which applies to vehicle inspection requirements (adding driver's license (DL) and hours-of-service compliance).

    d) Amends Section 12505(g) of the CVC, which is applicable to foreign commercial driver licenses.

    e) Amends Section 26710 of the CVC, which applies to windshield requirements.

    f) Amends Section 27903(c) of the CVC, which applies to explosives transportation permits and regulatory exemptions.

    g) Amends Section 34501(b) of the CVC, related to explosives transportation permits and regulatory exemptions.

    h) Amends state statute applicable to vehicle equipment condition by adding new Section 34501.19 of the CVC.

    i) Amends Section 34505.6 of the CVC, which applies to household goods carriers; and,

    j) Amends Section 16028(b) of the CVC to mandate that a peace officer request and verify evidence of financial responsibility from the driver of a vehicle, and remove the nonessential mandate that a peace officer

write the vehicle insurance policy number on a notice to appear. [California Highway Patrol]

- Current statute requires the DMV to cancel a dealer license when a dealer voluntarily surrenders their seller's permit to CDFTA for cancellation. *This section closes a loophole that enables dealers to continue to sell vehicles as licensed dealers without remitting sales and use tax to CDTFA.* [California Department of Tax and Fee Administration]

- AB 1343 (Spitzer, Chapter 768, Statutes of 2003) inadvertently exempts adults with an instruction permit from the requirement to drive under the supervision of an accompanying licensed driver. *This section amends subdivision (d) to include paragraph (5) of subdivision (a). This will restore adult drivers to subdivision (d).* The language is in print as AB 1898 (Fong) of 2022. [Republican Caucus]

- CVC Sections 2810.1, 16020, 16560, 34505.6, 34507.5, 34601, 34603, 34622, 34264 contain outdated cross-references for the exemption related to household movers and the permit required, and outdated reference to "goods carrier" rather than "mover." *This section reflects the proper cross-reference, and updates the term "mover" rather than "goods carrier."* [California Moving and Storage Association]

- California measures a motor vehicle's exhaust using a Society of Automotive Engineers' (SAE) methodology. SAE periodically updates the standard to reflect the latest best practices and to account for changing vehicle technology. As a result, the CVC must be updated to reflect these changes. *This section updates the California Vehicle Code to allow the Bureau of Automotive Repair to use the latest SAE testing standard when measuring a motor vehicle's exhaust noise.* [Specialty Equipment Market Association]

- AB 179 (Reyes, Chapter 796, Statutes of 2019), in part, repealed Article 3 of Chapter 6 of the Vehicle Code (§§3052-3058), which granted the Board the authority to hear appeals of decisions made by the Director of the DMV. Vehicle Code §3008 currently makes reference to the conduct of the Board in regard to hearing those appeals and must be deleted. In addition, Vehicle Code §3065.3 and 3065.4 were added to the Board's jurisdiction and therefore §3069.1 needs to be amended to incorporate these protests. Subdivisions (b) and (c) of Section 3008 must be removed to correct

obsolete references. *The new protests added to the Board's jurisdiction in §§3065.3 and 3065.4 need to be incorporated into §3069.1 for consistency purposes.*

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

SUPPORT: (Verified 8/22/22)

None received

OPPOSITION: (Verified 8/22/22)

None received

ASSEMBLY FLOOR: 72-0, 5/19/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Muratsuchi, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Cervantes, Medina, Nazarian, Quirk-Silva, Blanca Rubio

Prepared by: Melissa White, Katie Bonin / TRANS. / (916) 651-4121
8/23/22 13:23:18

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

SENATE RULES COMMITTEE AB 2960
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2960
Author: Committee on Judiciary
Amended: 8/24/22 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 6/14/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 37-0, 6/30/22 (Consent)
AYES: Allen, Archuleta, Atkins, Bates, Becker, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Borgeas, Gonzalez, Laird

ASSEMBLY FLOOR: 65-0, 5/12/22 (Consent) - See last page for vote

SUBJECT: Judiciary omnibus

SOURCE: Author

DIGEST: This bill makes various noncontroversial changes to existing law, including clarifying existing law, updating obsolete references, and removing a sunset on providing electronic notices of lien sales by self-storage facilities.

Senate Floor Amendments of 8/24/22 fix a typographical error in Code of Civil Procedure Section 1821(a)(1)(E) to change "manage the conservatee's own financial resources" to "manage their own financial resources," and add chaptering out amendments with AB 1663 (Maienschein, 2022) and SB 523 (Leyva, 2022).

Senate Floor Amendments of 8/9/22 change erroneous reference to "support witness" to "support person" in the amendments to Family Code Section 6308 to conform to defined term in statute and makes other nonsubstantive changes to address chaptering out issues related to SB 189 (Committee on Budget and Fiscal Review, Chapter 48, Statutes of 2022) becoming effective.

ANALYSIS:

Existing law and this bill:

1) Existing law provides that certain provisions authorizing and governing electronic communications between self-storage facility owners and self-storage unit occupants, such as sending preliminary lien notices, notices of lien sale, and blank declarations in opposition to lien sales, sunset on January 1, 2023. (Bus. & Prof. Code § 21701, 21703, 21705, and 21712.)

   This bill deletes that sunset thereby indefinitely extending these provisions.

2) Existing law requires specified disclosures to be made in connection with sales and other transfers of single-family residential real property. (Civ. Code § 1102-1102.19.)

   This bill clarifies that the disclosures to be made are those that are statutorily required on the date the parties enter into a contract, and that if an amendment to the disclosure statutes becomes effective after the date the contract is entered into, that amendment does not affect the disclosures required to be made during the transaction, unless the applicable statute provides otherwise.

3) Existing law establishes the Unclaimed Property Law (UPL), provides that it is the intent of the Legislature that property owners be reunited with their property, and prohibits property received by the state under the UPL from permanently escheating to the state. (Code Civ. Proc. §§ 1500 et. seq.; § 1501.5(a) & (c).) Existing law provides requirements for escheatment, reporting, and delivery to the State Controller of unclaimed securities under the UPL, and requires the Controller to sell unclaimed securities between 18 to 20 months from the date they were due to be reported to the Controller by the holder. (Code Civ. Proc. § 1516 & 1563.)

   This bill clarifies that under the UPL, holders of securities with a per share value of one cent or less do not need to report these securities to the Controller unless the aggregate value of the securities held exceeds $1,000, and provides that the deadline by which the Controller is required to sell unclaimed securities is 18 to 20 months from the date on which the securities were

actually reported to the Controller, not the date on which the report was due to be filed.

4) Existing law authorizes joint applicants to the superior court for recognition of a tribal court order that establishes a right to child support, spousal support payments, or marital property rights to be eligible for a $100 filing fee. (Code Civ. Proc. § 1733.1.)

   This bill clarifies that a single applicant is eligible for that $100 filing fee in addition to joint applicants.

5) Existing law authorizes a local child support agency to issue a notice directing that child support payments be made to the agency itself, another county office, or the State Disbursement Unit, and requires this notice to be served on both the parent obligated to pay support and the parent entitled to receive it. (Fam. Code § 4204.)

   This bill requires local child support agencies to provide notice to both parents and to the court when they are no longer providing child support-related services. This bill also deletes two references to the "person having custody" of a child in provisions that deal with court-ordered child support and replaces one of the references with "support obligor or obligee," to clarify that the statute's application is tied to child support obligations, and not to which parent has custody.

6) Existing law establishes procedures for the electronic filing of petitions for domestic violence restraining orders and gun violence restraining orders. (Fam. Code §§ 6307 & 6308; Pen. Code §§ 18122 & 18123, respectively.

   This bill makes the following changes to those procedures:

   a) Conforms the timing for processing electronically-filed petitions to existing statutory timeframes for processing petitions filed in person;

   b) Replaces the provision of telephone-based information with information through the self-help center and on the court website;

   c) Provides for electronic provision of the notice of court date, copies of the request to serve on the opposing party, and the temporary restraining order, unless the petitioner notes, at the time of electronic filing, that the documents will be picked up from the court; and

d) Permits a "support person," as defined, to appear remotely at the hearing on a petition for a domestic violence restraining order.

7) Existing law provides that records are only presumptively sealed in cases involving assisted reproduction for actions filed beginning January 1, 2023 under the Uniform Parentage Act. (Fam. Code §§ 7643 & 7643.5.)

   This bill clarifies that actions filed on or after January 1, 2023, are only presumptively sealed in cases involving assisted reproduction.

8) Existing law authorizes the Department of Fair Employment and Housing (DFEH) to provide assistance to communities and persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on protected categories under the Fair Employment and Housing Act, but only when, in the Department's judgment, peaceful relations among the citizens of the community are threatened. (Gov. Code § 12931.)

   This bill clarifies that DFEH can assist in resolving disputes, disagreements, or difficulties when peaceful relations among persons of the community are threatened.

9) Existing law provides that citizens are eligible to serve, without pay, on advisory agencies and conciliation councils that work with the Fair Employment and Housing Council. (Gov. Code § 12935.)

   This bill clarifies that persons are eligible to serve, without pay, on advisory agencies and conciliation councils that work with the Fair Employment and Housing Council.

10) Existing law provides DFEH a period of either one year or two years, depending on whether the complainant is an individual or a group or class, to investigate a complaint alleging unlawful employment practices. (Gov. Code § 12965.)

    This bill tolls (stops) the period in which DFEH must complete its investigation of a complaint alleging unlawful employment practices during any mandatory or voluntary dispute resolution proceeding.

11) Existing law requires the California Commission on Disability Access to make an annual report to the Legislature, by January 31 of each year, regarding accessibility violations alleged in demand letters and court complaints for the preceding calendar year. (Gov. Code § 14985.8.)

This bill changes the date the report is due to March 31 of each year.

12) Existing law specifies procedures for the appointment of counsel for conservatees, proposed conservatees, and persons alleged to lack legal capacity who neither have, nor plan to retain, legal counsel. (Prob. Code §§ 1471, 1821, 1823, 1826, 1828, 1894, 1895, 2250.6, 2253, & 2356.5.)

    This bill clarifies terminology in these provisions in order to facilitate courts' implementation of these provisions.

13) Existing law specifies the duties of trustees if no person holding the power to revoke a trust is competent and the trust instrument does not otherwise address this situation. (Prob. Code § 15800.)

    This bill clarifies terminology used in this provision.

14) Existing law requires the Judicial Council to adopt rules of court meant to allow for telephonic or other remote appearance options by tribes in child welfare proceedings involving an Indian child, if the federal Indian Child Welfare Act of 1978 applies, by July 1, 2021. (Welf. &Inst. Code § 224.2.)

    This bill authorizes courts, in child welfare proceedings involving an Indian child in which the federal Indian Child Welfare Act of 1978 applies, the flexibility to provide for remote appearance by tribes via any method of appearance that is both consistent with court capacity and contractual obligations, and takes into account the capacity of the tribe, so long as the method chosen is sufficient to allow a tribe to fully exercise its rights.

15) Existing law provides that when a local child support agency accepts and disburses payments as provided relating to a child who is the subject of a court-issued support order, the local child support agency or Department of Child Support Services must issue a notice that the payments will be directed to the local child support agency on the child support obligor and oblige, and may serve the notice on the court in which the support order was issued. (Fam. Code, § 17404.4.)

    This bill requires that notice to be served on the court in which the support order was issued.

Comments

According to the author, provisions in this bill were proposed to the Assembly Judiciary Committee by the Attorney General, California Association of Realtors,

California Bankers Association, California Commission on Disability Access, California Self Storage Association, California Tribal Families Coalition, County Recorders Association of California, Department of Fair Employment and Housing, Judicial Council of California, and the State Controller's Office.

Extends provisions allowing electronic notices of liens for self-storage facilities indefinitely

Self-storage facilities in California are governed by the California Self-Storage Facility Act (the Act). (Bus. & Prof. Code, §§ 21700-21716.) The Act imposes a lien on any property that an occupant stores in a self-storage unit, in favor of the owner, and sets forth the procedures by which the owner can proceed with the attachment of the lien and a lien of sale if the occupant does not pay the agreed-upon rent. (Bus. & Prof. Code, §§ 21702-21707, & 21710.) Until 2018, the only way an owner could send the preliminary notice of lien, the notice of lien sale, and blank declarations in opposition to lien sales was via certified mail, postage prepaid, or by regular mail if the owner obtained a certificate of mailing indicating the date the notice was mailed, to the occupant's last known address (and to an alternative address, if the occupant provided one). In 2017, the Legislature passed AB 1108 (Daly, Chapter 227, Statutes of 2017), which adopted, on a trial basis, alternative procedures by which an owner could send the preliminary lien notices, notices of lien sale, and blank declarations in opposition to lien sales, such as via email. Statutory provisions were put into place that were meant to ensure that facility owners could demonstrate that occupants had actually received and read these emails. A sunset date of January 1, 2023, was put into place in order to verify whether any consumer harm resulted from email notice. The Assembly Judiciary Committee analysis states that neither of its committee staff nor the staff of the Assembly Privacy Committee have received reports of consumer harm from these electronic notices.[1] This bill removes the sunset date on these electronic notice provisions, thereby extending them indefinitely.

Clarifies the effect of real estate disclosure statutes on transactions that are in progress

The Civil Code provides for various disclosures that must be made in connection with any sale of a single-family residential real property. (Civ. Code § 1102 et. seq.) This bill provides that if an amendment to a disclosure statute becomes effective after the date the parties enter into a contract, that amendment does not affect the disclosures required to be made during the transaction—unless the

[1] Asm. Comm. on Judiciary, analysis of Asm. Bill No. 2960 (2021-2022 Reg. Sess.) as amended Apr. 7, 2022, at p. 5.

applicable statute specifies otherwise. This latter provision allows the Legislature to designate in statute that particularly-important disclosures are required to be updated mid-transaction and gives the parties to the contract clear guidance on what disclosures are required to be made.

Updates to UPL

This bill makes two changes to the UPL. First, it clarifies that the deadline for the Controller to sell unclaimed securities begins on the date the required report is received by the Controller, not on the date it was due as is required under existing law. This change ensures the owner of the securities are allotted the same sufficient time to reunite with their property before the securities are sold, regardless of when the holder of the securities files the required report (i.e. in time or late).

Second, this bill clarifies that securities with a per share value of one cent or less are not required to be reported the Controller unless the aggregate value of the security held exceeds $1,000. Securities that do not meet this criteria will continue to be maintained by the holder in the name of the owner, and, if the securities gain value, the holder will be required to report and deliver the securities during the next reporting cycle.

Requires local child support agencies to provide notice to parents and to the court when terminating services

This bill requires local child support agencies to provide notice to both parents and the court when no longer providing services with the goal streamlining court scheduling, assisting parents in understanding the child support process, and establishing a consistent procedure among local child support agencies.

Electronic filing of domestic violence restraining orders and gun violence restraining order petitions

SB 538 (Rubio, Chapter 686, Statutes of 2021) established procedures meant to allow parties to file petitions electronically for domestic violence restraining orders and gun violence restraining orders. According to the Judicial Council, the bill language did not conform to existing court processes and has created some difficulties for the courts in implementing its provisions.

Updating a tolling provision in the Fair Employment and Housing Act

This bill clarifies that DFEH may toll (pause) the statute of limitations under Section 12965 of the Government Code for bringing a civil action for unlawful employment practices during a mandatory or voluntary dispute resolution

proceeding. The tolling begins on the date DFEH refers the case to its dispute resolution division and ends on the date the dispute resolution division closes its mediation record and returns the case to the division that referred it.

This bill makes various other nonsubstantive and technical changes to update cross-references and terminology and various changes to clarify existing law.

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

SUPPORT: (Verified 8/24/22)

California Association of Realtors
California Judges Association
California Self Storage Association
County Recorders' Association of California
Self Storage Association

OPPOSITION: (Verified 8/24/22)

None received

ARGUMENTS IN SUPPORT: The author writes:

> AB 2960 is the Civil Law omnibus bill, generally introduced by Assembly Judiciary Committee annually or biennially. This year's measure includes a host of topics that are generally non-controversial or technical and have been merged into one vehicle to assist the Legislature in efficiently managing minor Judiciary-related matters this session.

In support of this bill, the California Association of Realtors writes:

> Among other provisions, AB 2960 clarifies what disclosures are required by law in a real estate transaction when a real estate contract is entered into at one point during the year and closes escrow at another point after a new disclosure law has gone into effect. There has been confusion in the past about this issue that has caused buyers to attempt to back out of transactions. It is in the best interest of both consumers and the real estate industry to bring clarity to the law.

ASSEMBLY FLOOR: 65-0, 5/12/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley,

Cooper, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Salas, Santiago, Seyarto, Smith, Stone, Ting, Villapudua, Voepel, Waldron, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Boerner Horvath, Cunningham, Davies, Gray, Grayson, Kiley, Lackey, Lee, Quirk-Silva, Rodriguez, Blanca Rubio, Valladares, Ward

Prepared by: Amanda Mattson / JUD. / (916) 651-4113
8/26/22 15:48:00

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

SENATE RULES COMMITTEE AB 2964
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2964
Author: Committee on Agriculture
Amended: 8/22/22 in Senate
Vote: 21

SENATE AGRICULTURE COMMITTEE: 5-0, 6/21/22
AYES: Borgeas, Hurtado, Caballero, Eggman, Glazer

SENATE NATURAL RES. & WATER COMMITTEE: 9-0, 6/28/22
AYES: Stern, Jones, Allen, Eggman, Grove, Hertzberg, Hueso, Limón, Skinner

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 75-0, 5/26/22 - See last page for vote

SUBJECT: Agricultural land conservation: California Farmland Conservancy Program Act

SOURCE: American Farmland Trust

DIGEST: This bill revises and recasts provisions of the California Farmland Conservation Program Act (CFCP) under the California Department of Conservation (DOC) to, among other things, authorize the CFCP to offer financial aid for projects and activities on agricultural lands that support conservation and sustainable land management, revise requirements on the department before disbursing funding under the program, and authorize any interest earned on moneys from federal grants, and gifts and donations to the CFCP be deposited into the California Farmland Conservancy Program Fund (Fund).

Senate Floor Amendments of 8/22/22 expressly authorize any interest earned on continuously appropriated moneys to the CFCP also be deposited into the Fund.

ANALYSIS:

Existing law:

1) Establishes CFCP, administered by DOC *(Public Resources Code Section 10200).*

2) Creates the Fund within the DOC and requires moneys in the fund to be used to purchase agricultural conservation easements, fee title acquisition grants, and land improvement and planning grants *(Public Resources Code Section 10230).*

This bill:

1) Authorizes the interest earned on continuously appropriated moneys to the CFCP be deposited into the Fund.

2) Authorizes the program to offer financial assistance, including grants or contracts for projects and activities on agricultural lands that support agricultural conservation and sustainable land management., including, but not limited to:

    a) Acquisition of agricultural conservation easements or fee title to protect the land's agricultural use or capacity.
    b) Improvements to land protected by a conservation easement, deed restriction, or similar long-term agreement as determined by the director.
    c) Plans to protect and conserve agricultural lands and plans to protect, conserve, restore, or enhance resources or values located on or adjacent to agricultural lands or that were historically present on agricultural lands.
    d) Technical assistance to develop projects, prepare applications, and implement projects.
    e) Capacity building.
    f) Technology transfers.
    g) Administrative costs incurred by the department to administer the program.
    h) Any other purposes approved by the Legislature in a funding appropriation for the program.

3) Allows funding to be used in accordance with the expenditures and distributions authorized, required, or otherwise provided in the program for grants for the acquisition of agricultural conservation easements for fee title.

4) Expands the authorization of the department to pay direct costs associated with the acquisition of an easement or fee title.

5) Allows the department to pay direct costs associated with the acquisition for costs incurred during the grant term.

6) Defines the following:

   a) "Agricultural Conservation Easement" or "conservation easement" or "easement" to mean an interest in land, less than fee simple that represents the right to prevent the development or improvement of the land, as specified in Section 815.1 of the Civil Code, for any primary purpose other than agricultural production.
   b) "Applicant" to mean an entity listed in Section 815.3 of the Civil Code that applies for a grant authorized pursuant to this division (Division 10.2).
   c) "Agricultural land" to mean prime farmland, farmland of statewide importance, unique farmland, farmland of local importance, and grazing land as defined in the Guidelines for the Farmland Mapping and Monitoring Program, pursuant to Section 65570 of the Government Code.
   d) "Restriction" to have the same meaning as defined in Section 784 of the Civil Code, which states "restriction", means a limitation on, or provision affecting, the use of real property in a deed, declaration, or other instrument, whether in the form of a covenant, equitable servitude, condition subsequent, negative easement, or other form of restriction."
   e) "Nonprofit organization" to mean an organization described in subdivision (a) of Section 815.3 of the Civil Code.
   f) "Secretary" to mean the secretary of the Natural Resources Agency.
   g) "Resource conservation district" to mean a resource conservation district established pursuant to Division 9 (commencing with Section 9001) of the Public Resource Code.

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

According to the Senate Appropriations Committee:

1) This bill could result in cost pressures of an unknown, but potentially significant amount, by simplifying the CFCP application process and increasing expenditure flexibility. Consequently, the CFCP could become oversubscribed. CFCP funding sources have included the General Fund (GF), special funds and various propositions.

2) Additionally, to the extent that the bill results in greater demand for CFCP grants, it could lead to annual property tax revenue reductions of an unknown, but potentially significant amount. Lower local property tax revenues lead to increased General Fund Proposition 98 spending by up to roughly 50 percent

(the exact amount depends on the specific amount of the annual Proposition 98 guarantee, which in turns depends upon a variety of economic, demographic and budgetary factors). Conservation easements do not remove land from local property tax rolls, but they can reduce the land's market value, thereby lowering property tax revenue.

3) DOC would incur minor and absorbable costs to revise CFCP administration.

SUPPORT: (Verified 8/23/22)

American Farmland Trust (source)

OPPOSITION: (Verified 8/23/22)

None received

ARGUMENTS IN SUPPORT: According to the author, "AB 2964 will modernize the California Farmland Conservancy program (CFCP) by improving efficiencies, cost-effectiveness, and streamlining. This bill will also remove barriers such as complicated application processes and requirements that often prevent access for farmers and ranchers."

ASSEMBLY FLOOR: 75-0, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, O'Donnell, Villapudua

Prepared by: Reichel Everhart / AGRI. / (916) 651-1508
8/23/22 13:23:07

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

SENATE RULES COMMITTEE AB 2971
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2971
Author: Committee on Governmental Organization
Amended: 8/24/22 in Senate
Vote: 21

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

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 73-0, 5/25/22 (Consent) - See last page for vote

SUBJECT: Alcoholic beverage control: fees

SOURCE: Author

DIGEST: This bill extends the sunset date on an existing provision in law that permits certain alcoholic manufacturers to hold free invitation-only promotional events in connection with the sale or distribution of a distilled spirit or wine. Additionally, the bill makes various technical and conforming changes to the alcoholic Beverage Control Act (ABC). Finally, this bill extends the current tied-house exception, until January 1, 2026, which authorizes a beer manufacturer to give, free of charge, up to five cases of retail advertising glassware to an on-sale retail licensee, per licensed location, each calendar year, and authorizes an on-sale retail licensee to accept, free of charge, up to 10 cases of retail advertising glassware, per licensed location, from licensed beer manufacturers each calendar year, subject to specified conditions.

Senate Floor Amendments of 8/24/22 add chaptering out language with SB 793 (Wiener).

ANALYSIS:

Existing law:

1) Establishes the Department of ABC and makes the department responsible for regulating the application, issuance, and suspension of alcoholic beverage licenses.

2) Prescribes a schedule of fees for different license types and distinguishes between new licenses and duplicate licenses.

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

4) Provides, if an alcoholic beverage license application includes multiple new permanent licenses to be issued at the same premises, the application fee is to be required for only one of the applied-for licenses, and an application fee may not be charged for the remainder of the licenses. Current law requires that the application fee to be paid shall be the highest of the applicable fees.

5) Prescribes the amounts of fees required in connection with applications to transfer specified alcoholic beverage licenses.

6) Provides, if the application for a transfer includes multiple licenses issued at the same premises, an application fee is required for only one of the licenses being transferred, in which case the application fee is the highest of the applicable fees.

7) Requires a corporation, limited partnership, or limited liability company holding an alcoholic beverage license, or holding 10% or more of the ownership of a license, to provide specified reports to ABC and a fee for submission of the report.

8) Prohibits an alcoholic beverage licensee from giving any premium, gift, or free goods in connection with the sale or distribution of any alcoholic beverage, except as authorized by rules adopted by ABC.

9) Provides, until January 1, 2023, authorizes a manufacturer of distilled spirits, distilled spirits manufacturer's agent, out-of-state distilled spirits shipper's certificate holder, winegrower, rectifier, or distiller to provide, free of charge, entertainment, food, and distilled spirits, wine, or nonalcoholic beverages to

consumers at an invitation-only event in connection with the sale or distribution of wine or distilled spirits, subject to specified conditions.

10) Authorizes, until January 1, 2023, a beer manufacturer to give, free of charge, up to five cases of retail advertising glassware to an on-sale retail license, per license location, each calendar year, and authorizes an on-sale retail licensee to accept, free of charge, up to 10 cases of retail advertising glassware, per licensed location, from licensed beer manufacturers each calendar year, subject to specified conditions.

This bill:

1) Extends the sunset date, from January 1, 2023, to January 1, 2028, on an existing provision in law that permits distilled spirits manufacturers, winegrowers, or an authorized agent, to provide, free of charge, entertainment, food, and distilled spirits, wine, or nonalcoholic beverages to consumers at an invitation-only event, held on specified premises, in connection with the sale or distribution of wine or distilled spirits, as provided.

2) Prescribes the application fee for a special use, Type 99, license.

3) Requires that when an application for a new permanent license is combined with a specified application for a license transfer at the same premises, only the transfer application fee or the new permanent license application fee be paid, whichever is highest.

4) Requires that when an application for a transfer of a license is combined with an application for a new permanent license at the same premises, only the transfer application fee or the new permanent license application fee be paid, whichever is highest.

5) Provides that the annual fee payable for each new permanent license issued pursuant to certain provisions.

6) Prohibits requiring payment of the above-described report fee for duplicate licenses issued to branch office locations, as specified, or for club licenses or veterans' club licenses issued to nonprofit or fraternal organization, as specified.

7) Extends a current tied-house exception, until January 1, 2026, which authorizes a beer manufacturer to give, free of charge, up to five cases of retail advertising glassware to an on-sale retail licensee, per licensed location, each calendar year, and authorizes an on-sale retail licensee to accept, free of charge, up to 10

cases of retail advertising glassware, per licensed location, from licensed beer manufacturers each calendar year, subject to specified conditions.

Comments

Purpose of the Bill. According to the author's office, "this bill represents the annual Assembly Governmental Organization Committee omnibus alcohol committee bill that makes various technical and non-controversial changes to the Act."

Additionally, the author's office, "extending the sunset for five years on California's hosted entertainment law will allow wine and spirits suppliers to continue to present their brands before a variety of audiences. AB 2971 recognizes the value of this important marketing tool that benefits both consumers and suppliers while ensuring proper oversight of these invitation-only events by the ABC. It should be noted that no other changes to current law (invitation-only promotional events) are being allowed under this bill."

Supporters of this bill note that these events are beneficial to manufacturers when they launch a new brand or conduct a product extension campaign. To the best of their knowledge, the ABC has not experienced any significant enforcement issues regarding the events authorized by this bill.

Additionally, AB 2971 resolves several errors, inequities, and duplicative fees related to the application and annual renewal fee provisions for licenses issued by ABC resulting from comprehensive fee changes enacted in 2019. This bill also recognizes the license type number established by ABC for unique special licenses codified by the Legislature. Lastly, this bill makes various technical changes within the Act, including erroneous code section references.

Current Exception. Existing law generally prohibits an alcoholic beverage licensee, including a producer, from giving any gift or free goods in connection with the sale or distribution of any alcoholic beverage. However, several exceptions to these restrictions have been enacted. One such exception is related to hosted events where alcohol producers can promote a new brand or varietal. Specifically, AB 609 (Santiago, Chapter 295, Statutes of 2017), AB 1116 (Hall, Chapter 461, Statutes of 2013), and AB 2293 (de León, Chapter 638, Statutes of 2008). These three bills allowed specific alcohol producers to entertain consumers at private parties and events by invitation-only where potential buyers can sample their alcohol product. This bill will extend the sunset of this exception from January 1, 2022 to January 1, 2028.

Tied-house laws. As noted, Tied-house laws separate the alcoholic beverage industry into a three-tier license system (manufacturer, wholesaler, and retailers) and generally prohibit alcoholic beverage licensees from giving any gift in connection with the sale or distribution of an alcoholic beverage.

The original policy rationale for this body of law was to (1) promote the state's interest in an orderly market; (2) prohibit the vertical integration and dominance by a single producer in the market place; (3) prohibit commercial bribery and to protect the public from predatory marketing practices; and, (4) discourage and/or prevent the intemperate use of alcoholic beverages. Exceptions to these restrictions have been enacted throughout the years in those specific instances where the Legislature determined that the public's interests are protected.

With respect to beer, existing law provides that premiums, gifts, or free goods, including advertising specialties that have no significant utilitarian value other than advertising, shall be deemed to have greater than inconsequential value if they cost more than $0.25 per unit, or cost more than $15 in the aggregate for all those items given by a single supplier to a single retail premises per calendar year. The Department of ABC Rule 106(e)(2) provides the following examples of the kinds of consumer giveaway items with "inconsequential" value: ash trays, bottle or can openers, litter or shopping bags, matches, recipe cards, pamphlets, pencils, post cards, hats, posters, bottle or can stoppers, etc.

In addition, AB 1133 (Low, Chapter 623, Statutes of 2019) authorized, until January 1, 2023, a beer manufacturer to give, free of charge, up to five cases of retail advertising glassware to an on-sale retail licensee, per licensed location, each calendar year, and authorizes an on-sale retail licensee to accept, free of charge, up to 10 cases of retail advertising glassware, per licensed location, from licensed beer manufacturers each calendar year, subject to specified conditions.

This bill extends this tied-house exception to January 1, 2026.

Related/Prior Legislation

AB 1133 (Low, Chapter 623, Statutes of 2019) authorized, until January 1, 2023, a beer manufacturer to give, free of charge, up to five cases of retail advertising glassware to an on-sale retail licensee, per licensed location, each calendar year, and authorizes an on-sale retail licensee to accept, free of charge, up to 10 cases of retail advertising glassware, per licensed location, from licensed beer manufacturers each calendar year, subject to specified conditions.

AB 2573 (Low, 2018) would have allowed a beer manufacturer to give up to five cases of glassware to an on-sale retail licensee, as specified. (Vetoed by Governor Brown)

AB 609 (Santiago, Chapter 295, Statutes of 2017) extended the sunset, from January 1, 2018 to January 1, 2023, on an existing provision in law that permits certain alcohol manufacturers to hold free invitation-only promotional in connection with the sale or distribution of a distilled spirit or wine.

AB 711 (Low, Chapter 226, Statutes of 2017) allowed a beer manufacturer to provide consumers free or discounted rides through taxicabs, transportation network companies, or any other ride service for the purpose of furthering public safety. Additionally, the bill allowed the person authorized to conduct a hosted event to provide attendees at the event with a free ride home.

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

According to the Senate Appropriations Committee, the Department of ABC's activities are funded by regulatory and license fees and generally the department does not receive support from the General Fund. New legislative mandates, although modest in scope, may in totality create new cost pressures and impact the department's operating costs and future budget requests.

SUPPORT: (Verified 8/23/22)

Diageo

OPPOSITION: (Verified 8/23/22)

None received

ARGUMENTS IN SUPPORT: According to Diageo, "[the bill] contains a provision that extends the sunset date, until January 1, 2028, for a promotional program the Legislature previously authorized to permit invitation-only events during which distilled spirits manufacturers and winegrowers may showcase their products to consumers. This promotional opportunity has been very beneficial to manufacturers when conducting brand launches or product extension campaigns. To the best of our knowledge, ABC has not experienced any significant enforcement issues regarding the events authorized by this section."

ASSEMBLY FLOOR: 73-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Bloom, Irwin, O'Donnell, Blanca Rubio

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
8/26/22 15:48:01

****** END ******

SENATE RULES COMMITTEE AB 2972
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2972
Author: Committee on Jobs, Economic Development, and the Economy
Amended: 8/25/22 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 12-0, 6/13/22
AYES: Roth, Melendez, Bates, Becker, Dodd, Eggman, Hurtado, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Archuleta, Jones

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 73-0, 5/25/22 (Consent) - See last page for vote

SUBJECT: California Business Investment Services Program

SOURCE: Author

DIGEST: This bill requires, that in undertaking program activities related to the California Business Investment Services Program ("the Program", or CalBIS), housed within the Governor's Office of Business and Economic Development (GO-Biz), the Program director will encourage activities that support the upward mobility of existing small businesses and residents. This bill also requires that GO-Biz will work with partners to mitigate the impacts of gentrification that may lead to the displacement of residents and small businesses. This bill requires GO-Biz to track activities and necessary and as specified.

Senate Floor Amendments of 8/25/22 clarify: (1) the bill is encouraging activities that support the upward mobility of existing small businesses and residents; (2) GO-Biz, rather than the Program director, is to work with partners and stakeholders to moderate the impacts of gentrification that may lead to the displacement of residents and small businesses; (3) GO-Biz is to track activities, as necessary and as specified.

ANALYSIS:

Existing law:

1) Establishes GO-Biz within the Governor's Office for the purpose of serving as the lead state entity for economic strategy and marketing of California on issues relating to business development, private sector investment and economic growth. (Government Code (GC) § 12096 et. seq)

2) Creates the Program within GO-Biz. (GC § 12096.5(a))

3) States the purpose of the Program is to serve employers, corporate executives, business owners, and site location consultants who are considering California for business investment and expansion. (GC § 12096.5(c))

4) Requires in implementing the Program, the director shall establish and implement a process for convening teams on key business development situations, including, but not limited to, attracting new businesses, relocation of large manufacturers, or the closure of a large business employer. (GC § 12096.5(d))

5) Requires in implementing the Program, the director shall work cooperatively with local, regional, federal, and other state public and private marketing institutions and trade organizations in attracting, retaining, and helping businesses grow and be successful in California. (GC § 12096.5(e))

This bill:

1) Requires that in undertaking program activities related to the Program, housed within GO-Biz, the Program director will encourage activities that support the upward mobility of existing small businesses and residents.

2) Requires that GO-Biz will work with partners to mitigate the impacts of gentrification that may lead to the displacement of residents and small businesses.

3) Requires GO-Biz to track activities and necessary and as specified.

Background

GO-Biz. In February 2010, the Little Hoover Commission undertook a review of the state's economic and workforce development programs. In its final report, *Making up for Lost Ground: Creating a Governor's Office of Economic Development*, it analyzed the status and effectiveness of current programs since the 2003 demise of the Technology, Trade and Commerce Agency and recommended the creation of a new governmental entity to fill the void left by the dismantled agency.

The report called for a single entity that would promote greater economic development, foster job creation, serve as a policy advisor and deliver specific services (i.e., permitting, tax, regulatory, and other information) directly to the California business community. In April 2010, Governor Schwarzenegger issued Executive Order S-05-10 as a means to operationalize the report recommendations including the creation of the Governor's Office of Economic Development (GOED).

In October 2011, the Governor signed AB 29 (John A. Pérez, Chapter 475, Statutes of 2011), which effectively codified GOED and changed its name to GO-Biz. Since its inception, the office has served thousands of businesses, 95 percent of which are small businesses. The most frequent types of assistance include help with permit streamlining, starting a business, relocation and expansion of businesses, and regulatory challenges.

In March 2012, Governor Brown initiated a reorganization process to realign the state's administrative structure. Key changes include dismantling of the Business, Transportation and Housing Agency and the shifting of a number of key programs to GO-Biz including the Small Business Loan Guarantee Program, the California Travel and Tourism Commission, the California Film Commission, the Film California First Program, and the Infrastructure and Economic Development Bank (IBank). Currently, GO-Biz administers the following programs and units:

- "Made In California" program for the purpose of encouraging consumer product awareness and to foster the purchases of products manufactured in California.

- The California Inclusive Innovation Hub Program (iHub2) to incubate and/or accelerate technology and science-based firms, with a focus on underserved regions and communities.

- The California Competes Tax Credit Program under which "businesses who want to come to California or stay and grow in California" can receive an income tax credit.

- The California Business Investment Services Unit, which provides no-fee, tailored site selection services to employers and others who may be considering California for relocation or expansion.

- The California Business Portal, which provides information to California businesses about common questions, permitting, financial options, and more.

- The California Community Reinvestment Grants Program, which was included in Proposition 64, authorized GO-Biz to award grants to local health departments and certain nonprofit organizations to support communities disproportionately affected by the War on Drugs.

- Office of the Small Business Advocate which provides information and assistance to small businesses.

- The Zero Emission Vehicles (ZEV) Infrastructure Unit which works to accelerate the deployment of ZEV infrastructure.

- The International Affairs and Business Development Unit, which serves as California's primary point of contact for expanding international trade and investment relations. This unit focuses on foreign direct investment (services for foreign investors, foreign investment technical assistance, and the EB-5 Investor Visa Program), international trade promotion (STEP program, trade missions, export assistance, and the California-China Trade Office), and international agreements.

The CalBIS Program. As stated in statute, the Program's purpose is to "serve employers, corporate executives, business owners, and site location consultants who are considering California for business investment and expansion." The Program serves as a point of contact for firms interested in relocating or expanding in California. The unit is mostly designed to assist businesses in locating suitable site locations and business incentives. CalBIS provides confidential site selection services for businesses looking to relocate or expand in a new site in California. According to GO-Biz, some factors a company uses to determine how it will make a site selection include: utility cost and availability; land cost; available acreage; zoning; overall site readiness; rail service; water/sewer capacity and cost; and a ready and applicably trained workforce. CalBIS can also prepare a customized list of federal, state, and local business incentives and related information. A business

can obtain information on available tax credits, financial assistance and loan programs, local workforce skills, transportation and infrastructure, and economic and demographic data. CalBIS staff are available to meet with businesses throughout the state.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

This bill is keyed fiscal by Legislative Counsel.

SUPPORT: (Verified 8/25/22)

None received

OPPOSITION: (Verified 8/25/22)

None received

ASSEMBLY FLOOR: 73-0, 5/25/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Berman, Bloom, Irwin, O'Donnell, Blanca Rubio

Prepared by: Dana Shaker / B., P. & E.D. /
8/26/22 15:48:01

****** END ******

SENATE RULES COMMITTEE AB 2974
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2974
Author: Committee on Jobs, Economic Development, and the Economy
Amended: 8/23/22 in Senate
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 10-1, 6/28/22
AYES: Dodd, Allen, Archuleta, Becker, Bradford, Hueso, Kamlager, Portantino, Rubio, Wilk
NOES: Nielsen
NO VOTE RECORDED: Borgeas, Glazer, Jones, Melendez

SENATE APPROPRIATIONS COMMITTEE: 6-0, 8/11/22
AYES: Portantino, Bradford, Jones, Laird, McGuire, Wieckowski
NO VOTE RECORDED: Bates

ASSEMBLY FLOOR: 72-0, 5/23/22 - See last page for vote

SUBJECT: Small Business Procurement and Contract Act: federal Infrastructure Investment and Jobs Act funding

SOURCE: Author

DIGEST: This bill establishes a 25% small business participation goal for contracts financed, in whole or in part, with specified funding from the Federal Infrastructure Investment and Jobs Act (IIJA), and includes reporting requirements, as specified.

Senate Floor Amendments of 8/23/22 clarify that the designee of a state agency may make a determination that the requirements of this bill do not apply, as specified. Additionally, the amendments specify that the Director of the Department of Transportation (Caltrans) or their designee may make a determination that a class or category of contracts is exempt from the requirements of the bill, as specified.

ANALYSIS:

Existing law:

1) Designates the Department of General Services (DGS) as the administrator of the state Small Business Procurement and Contract Act (Act), which includes certifying and implementing targeted preference programs for certified small businesses, microbusinesses, and disabled veteran businesses enterprises, as specified.

2) Requires DGS, and the heads of other state agencies that enter into contracts for the acquisition of goods, services, information technology (IT), and the construction of state facilities to establish goals for the participation of small businesses in these contracts, to provide for a small business preference in the award of these contracts, to give special consideration and special assistance to small businesses, and, whenever possible, to make awards to small businesses, as specified.

3) Requires each state agency that significantly regulates small businesses or that significantly impacts small businesses to designate at least one person who shall serve as a small business liaison, as specified.

4) Defines "small business" to mean an independently owned and operated business that is not dominant in its field of operation, the principal office of which is located in California, the officers of which are domiciled in California, and which, together with affiliates, has 100 or fewer employees, and average annual gross receipts of $15,000,000 or less over the previous three years, or is a manufacturer with 100 or fewer employees.

5) Defines "state agency" to include the following: Business, Consumer Services, and Housing; Transportation; California Environmental Protection; California Health and Human Services; Labor and Workforce Development; Natural Resources; Government Operations; and Corrections and Rehabilitation; and, every state office, department, division, bureau, board, or commission in which the head of the agency is appointed by the Governor.

This bill:

1) Requires each state agency awarding new contracts over $500,000 that are financed in whole or in part, with the proceeds of the IIJA, in order to encourage the participation of small businesses in the construction, alternation,

demolition, repair, or improvement, of the state's infrastructure, to do all of the following:

a) Establish a 25% small business participation goal in all contracts that it finances, in whole or in part, with these federal funds.
b) Beginning April 1, 2023, notify the agency's small business liaison of any anticipated contracting opportunities that will be paid, in whole or in part, with funding from the IIJA in the succeeding 12 months.
c) The agency small business liaison shall provide information to California small businesses regarding training and technical assistance that is available to assist them in identifying, understanding, and bidding on contracts for projects funded through the agency with IIJA funding, as specified.

2) Exempts a state agency from the above requirements for IIJA funds if the head of the state agency or their designee makes one of the following determinations:

a) Federal requirements preclude small business procurement participation as required by this bill.
b) The bid issued by the state agency is required to include a disadvantaged business enterprise procurement participation requirement.
c) In the case of competitively awarded funding from the federal government, if compliance with the requirements of this section would make the state's application for a competitive program less competitive than other eligible applicants.

3) Provides that the following subtitles, titles, and divisions of the IIJA shall be subject to the 25% goal and related activities:

a) Division A, the Surface Transportation Reauthorization Act of 2021.
b) Division B, the Surface Transportation Investment Act of 2021.
c) Division E, the Drinking Water and Wastewater Infrastructure Act of 2021.
d) Division F, Broadband.
e) Title IX of Division G, the Build America, Buy America Act.

4) Authorizes the Director of Caltrans or their designee to make a determination that a class or category of contracts is exempt from the requirements of the bill. Nothing in this bill shall be construed to require the head of Caltrans or their designee to make a determination for each individual contract.

5) Requires a state agency that has awarded any contract financed with the proceeds of the IIJA to annually report to DGS statistics comparing the small

business and microbusiness participation dollars for contracts funded by these federal dollars to the total contract dollars for contracts funded by these federal dollars, as specified.

6) Requires any state agency that did not meet its participation goal to include in its report a plan of action to meet its participation goal during the current fiscal year. These reporting requirements do not supersede any other reporting requirements required of these funds. In each instance that such a determination is made, the state agency shall report to DGS in a manner to be determined by the department.

Comments

Purpose of the Bill. According to the author's office, "the federal IIJA includes $1.2 trillion in new infrastructure funds. This represents a $550 billion increase in federal government spending above baseline funding levels. For California, this represents $14 billion in additional formula funding to California over the five-year funding period, as compared to existing formula funding levels. The proposed budget for 2022-23 anticipates $50 billion in federal funding, which will be used for a range of purposes, including to accelerate the transition to zero-emission vehicles, modernize the state's transportation system, spur clean energy innovation, advance the state's housing goals, reduce wildfire risk to communities, and support drought resilience and response. By including small businesses as prime and subcontractors, this important federal funding has a much greater impact of the California economy, including more local jobs and higher regional multipliers."

California Infrastructure Bond Acts of 2006. In response to the passage of a number of infrastructure bonds by California voters in 2006, the Legislature passed and the Governor signed, AB 761 (Coto, Chapter 611, Statutes of 2007), which required each state agency awarding contracts financed with funds from these bonds to establish a 25% small business participation goal. Collectively, the bonds are known as the Infrastructure Bonds Act of 2006 (I-Bond Acts), and they include:

- Proposition 1B, transportation bonds ($19.9 billion).
- Proposition 1C, housing bonds ($2.9 billion).
- Proposition 1D, education ($10.4 billion).
- Proposition 1E, flood control bonds ($4.1 billion).
- Proposition 84, bonds for resources ($5.4 billion).

The number of departments utilizing I-Bond funding has steadily decreased over the last several years. According to the DGS 2019-20 Consolidated Report, the only department with any significant utilization of I-Bond funds exceeded the small business participation goal. During the 2019-20 fiscal year (FY), $3,366,352 I-Bond Funds were expended, and of that total, 90.75% of the funds went to small businesses. Four departments reported use of the I-Bond funds for FY 2018-19. The last time more than 10 departments used the I-Bond funds was in FY 2013-14.

The Federal IIJA. The IIJA includes $1.2 trillion in new infrastructure funds, which represents a $550 billion increase in federal government spending above baseline funding levels. Among other things, the IIJA includes:

- $621 billion on roads, bridges, public transit, rail, ports, waterways, airports, and electric vehicles to improve air quality, reduce congestion, and limit greenhouse gas emissions.
- $400 billion to bolster caregiving for aging and disabled Americans.
- $300 billion toward boosting manufacturing, specifically semiconductor, medical, and clean manufacturing.
- $111 billion to rebuild water infrastructure and replace all of the nation's lead pipes and service lines.
- $100 billion in order to give every American access to affordable, reliable, and high-speed broadband.

One estimate is that this new federal funding represents $14 billion in additional formula funding to California over the five-year funding period, as compared to existing formula funding levels.

To assist state and local governments, Tribal Governments, and other partners access the new funds, the federal government has created a Building a Better American guidebook with details on each program funded through the IIJA.

Related/Prior Legislation

AB 2019 (Petrie-Norris, 2022) codifies a 25% small business goal for state procurement and proposes actions to enhance the ability and commitment of state agencies to include SBs, disadvantaged business enterprises, and disabled veteran business enterprises in state contracting, as specified. (Pending on the Senate Floor)

SB 605 (Galgiani, Chapter 673, Statutes of 2017), among other things, revised the definition of "small business" for the purposes of public works contracts and engineering contracts for public works contracts, to mean a business with 200 or fewer employees and average annual gross receipts of $36 million or less.

AB 761 (Coto, Chapter 611, Statutes of 2007), among other things, required state agencies to establish a 25% small business participation goal for construction of the state's infrastructure financed with specified bond proceeds, and required each state agency to report on certain statistics regarding small business and microbusiness participation, as specified.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, the Office of the Small Business and the Disabled Veterans Business Enterprise (DVBE) program under DGS anticipates the need for one additional staff, likely to be in the low hundreds of thousands of dollars, to meet increased workload demand resulting from developing a mechanism and procedure for departments to report to DGS infrastructure-funded transactions and small business (SB) goal exemptions; support in developing and testing the update in the Department of Financial Information System for California (FI$Cal) functionality; update training materials and conduct the training for FI$Cal and non-FI$Cal departments; support policy development; monitor SB participation progress; work with SB advocates on capturing and reporting information; and review improvement plans.

Additional indeterminate costs to DGS include workload associated with reporting and outreach to other state programs that award contracts using the specified infrastructure funds.

SUPPORT: (Verified 8/23/22)

None received

OPPOSITION: (Verified 8/23/22)

None received

ASSEMBLY FLOOR: 72-0, 5/23/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray,

Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Berman, Mia Bonta, Mayes, McCarty, O'Donnell, Blanca Rubio

Prepared by: Brian Duke / G.O. / (916) 651-1530
8/24/22 19:30:16

****** END ******

SENATE RULES COMMITTEE ACA 3
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACA 3
Author: Kamlager (D), et al.
Amended: 6/27/22 in Senate
Vote: 27

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 5/31/22
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

SENATE ELECTIONS & C.A. COMMITTEE: 4-0, 6/13/22
AYES: Newman, Nielsen, Hertzberg, Leyva
NO VOTE RECORDED: Glazer

SENATE APPROPRIATIONS COMMITTEE: 5-0, 6/16/22
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NO VOTE RECORDED: Bates, Jones

SENATE FLOOR: 21-6, 6/23/22 (FAIL)
AYES: Atkins, Becker, Bradford, Cortese, Durazo, Eggman, Gonzalez, Hertzberg, Kamlager, Laird, Leyva, Limón, McGuire, Newman, Pan, Portantino, Rubio, Skinner, Stern, Umberg, Wiener
NOES: Dahle, Glazer, Grove, Nielsen, Ochoa Bogh, Wilk
NO VOTE RECORDED: Allen, Archuleta, Bates, Borgeas, Caballero, Dodd, Hueso, Hurtado, Jones, Melendez, Min, Roth, Wieckowski

ASSEMBLY FLOOR: 59-0, 3/21/22 - See last page for vote

SUBJECT: Slavery

SOURCE: Young Women's Freedom Center

DIGEST: This constitutional amendment removes language in the state Constitution that allows involuntary servitude as punishment to a crime.

Senate Floor Amendments of 6/27/22 add "involuntary servitude" as a form of slavery and provide that the prohibition on slavery is not intended to have any effect on voluntary work programs in correctional settings.

Senate Floor Amendments of 6/23/22 clarify the definition of slavery.

ANALYSIS:

Existing constitutional law:

1) Prohibits slavery. (Cal. Const., Art. I, § 6.)

2) Prohibits involuntary servitude except to punish crime. (Cal. Const., Art. I, § 6.)

Existing law:

1) Specifies that it is felony to hold any person in involuntary servitude, or assumes rights of ownership over any person, or who sells any person to another, or receives money or anything of value, in consideration of placing any person in the custody, or under the power or control of another. (Pen. Code § 181.)

2) Requires that whenever by any statute a price is required to be fixed for any services to be performed in connection with the work program of the California Department of Corrections and Rehabilitation (CDCR), the compensation paid to prisoners be included as an item of cost in fixing the final statutory price. (Pen. Code § 2700.)

3) Provides that one of the purposes of the California Prison Industry Authority (CalPIA) is to operate a work program for prisoners which will ultimately be self-supporting by generating sufficient funds from the sale of products and services to pay all the expenses of the program, and one which will provide goods and services which are or will be used by CDCR, thereby reducing the cost of its operation. (Pen. Code § 2801, subd. (c).)

This constitutional amendment removes language in the state Constitution that allows involuntary servitude as punishment to a crime.

Background

The Thirteenth Amendment of the U.S. Constitution was ratified in 1865 and prohibited slavery and involuntary servitude. However, an exception was allowed if involuntary servitude was imposed as punishment for a crime. Article I, Section

6, of the California Constitution contains the same prohibitions on slavery and involuntary servitude and the same exception for involuntary servitude as punishment for crime.

The U.S. Supreme Court has consistently recognized that the Thirteenth Amendment does not prevent enforced labor as punishment for crime, and does not prevent state or federal governmental entities from compelling the performance of civic duties such as jury service (*Hurtado v. United States* (1973) 410 U.S. 578, 589) and military service (*Selective Draft Law Cases* (1918) 245 U.S. 366, 390). The California Supreme Court has interpreted the prohibition on slavery and involuntary servitude contained in Article I, section 6 of the California Constitution to be coextensive with the protection afforded by the Thirteenth Amendment. (*Moss v. Superior Court* (1998), 17 Cal. 4th 396, 418.)

Prison Labor

Generally. Federal courts have held that the U.S. Constitution does not prohibit incarcerated individuals from being required to work and does not provide incarcerated individuals a right to wages for work done in custody. In *Serra v. Lappin*, 600 F.3d 1191 (9th Cir. 2010), current and former federal inmates alleged that the low wages they were paid for work performed in prison violated their due process rights and various sources of international law. The Ninth Circuit Court of Appeals held that the U.S. Constitution does not provide prisoners any substantive entitlement to compensation for their labor. (*Id.* at p. 1196 (citing *Piatt v. MacDougall*, 773 F.2d 1032, 1035 (9th Cir. 1985) (holding that the state does not deprive an inmate of a constitutionally protected liberty interest by forcing him to work without pay).) The court noted that, "Although the Constitution includes, in the Thirteenth Amendment, a general prohibition against involuntary servitude, it expressly excepts from that general prohibition forced labor 'as a punishment for crime whereof the party shall have been duly convicted.' " (*Id*.)

CDCR. Penal Code Section 2700 provides that CDCR "require of every able-bodied prisoner imprisoned in any state prison as many hours of faithful labor in each day and every day during his or her term of imprisonment as shall be prescribed by the rules and regulations [of the department]." (*See also* Cal. Code Regs., tit. 15, § 3040, subd. (a).) Upon arrival at a prison reception center, incarcerated individuals go through a classification process. During the classification process, incarcerated individuals are placed on waiting lists for jobs and rehabilitative programs. Incarcerated individuals cannot refuse a job assignment and may be disciplined for refusing or failing to show up to work. Refusal to work can also lead to reduced privileges, including limitations on visits,

phone calls, canteen purchases, and yard, entertainment and recreation access. (https://www.cdcr.ca.gov/ombuds/ombuds/entering-a-prison-faqs/) Notably, incarcerated individuals may be assigned to a job in lieu of enrollment and participation in rehabilitative programs without the individual's consent. (Cal. Code Regs., tit. 15, § 3040, subd. (g).)

Prison Wages

Generally. According to a memo prepared by the Senate Office of Research, approximately 58,000 incarcerated individuals are assigned to jobs in the state's prisons. Each employed incarcerated person works an average of 6.5 hours/day and 32 hours/week in a variety of jobs, including food service, clerical work, maintenance and custodial work, and construction, among others. Existing law specifies that pay rates at each prison for paid assignments should reflect the level of skill and productivity required, and will be set with the assistance of the Institutional Inmate Pay Committee. (Cal. Code Regs., Tit. 15, § 3041.2, subd. (a)(1)(2).) Current pay rates for most jobs are as follows:

Skill Level	Hourly (Min/Max)	Monthly (Min/Max)
Level 1 (Lead Person)	$0.32-$0.37	$48-$56
Level 2 (Special Skill)	$0.19-$0.32	$29-$48
Level 3 (Technician)	$0.15-$0.24	$23-$36
Level 4 (Semi-Skilled)	$0.11-$0.18	$17-$27
Level 5 (Laborer)	$0.08-$0.13	$12-$20

Fire Camps. Incarcerated individuals housed at one of the state's conservation/fire camps are subject to a different pay scale with a pay rate of $1.45 to $3.90 per day based on skill level and position. When working as emergency firefighters during a wildfire, that pay is increased to $1 per hour.

CalPIA. Individuals working for CalPIA are also subject to a different pay scale. CalPIA is a self-supporting state entity that was established to operate industrial, agricultural, and service enterprises employing incarcerated individuals in CDCR facilities to provide products and services needed by the state or other public entity or public use. Penal Code Section 2801 provides that CalPIA is required to create and maintain working conditions within the enterprises as much like those which prevail in private industry as possible, to assure incarcerated individuals employed by CalPIA have the opportunity to work productively, to earn funds, and to acquire or improve effective work habits and occupational skills. CalPIA manages over 100 manufacturing, service, and consumable operations, including optical labs,

carpentry and custodial services, production of license plates, among others. Approximately 7,000 incarcerated individuals work for CalPIA's operations.

Penal Code Section 2811 prohibits CalPIA compensation from exceeding half of the minimum wage. CalPIA currently has a five-level pay scale with the lowest paid scale ranging from $0.35-$0.45 per hour and the highest scale ranging from $0.80 to $1 per hour.

Joint Venture Program. The Joint Venture Program was established via Proposition 139 in 1990 which allowed state prison and county jail officials to contract with public entities, businesses, and others to provide the labor of incarcerated workers. Wages are required to be comparable to the wages of non-incarcerated individuals doing similar work. These wages are subject to the following deductions which cannot in the aggregate exceed 80 percent of gross wages: federal, state, and local taxes, reasonable charges for room and board, court or victim restitution, and allocations for family support. (Pen. Code § 2717.8.)

The following distributions are made from an incarcerated individual's net wages:

- 20% is sent to CDCR as a reimbursement for room and board.
- 20% is used to pay restitution fines or paid directly to local crime victims' programs.
- 20% is sent directly to the incarcerated individual's family for support or used to pay court ordered wage garnishments (i.e., child support).
- 20% is deposited in a mandatory savings account which is available to the person upon their release.
- 20% is placed in the person's trust account at the institution for personal use (https://jointventureprogram.calpia.ca.gov/workers-wages/).

According to a memo prepared by the Senate Office of Research, 23 incarcerated individuals are currently employed through this program with wages ranging from $14 to $15.42 per hour.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee:

- *CDCR/CalPIA:* Unknown, potentially significant costs to CDCR and CalPIA to increase wages for inmate labor (General Fund). Actual costs will depend on how involuntary servitude is legally defined. If CDCR and CalPIA are required to pay minimum wages for all prison jobs then actual costs could be in the billions annually.

- *Department of Justice (DOJ):* The DOJ reports costs of $560,000 in Fiscal Year (FY) 2022-23, and $772,000 in FY 2023-24 and annually thereafter (Special Fund – Legal Services Revolving Fund).

- *Courts:* Unknown, potentially significant cost pressures due to increased court workload resulting from an increase in court filings as a result of this constitutional amendment (Trial Court Trust Fund, General Fund).

- *Ballot Costs:* One-time Secretary of State costs in the range of $546,000 to $728,000 for printing and mailing costs to place the measure on the ballot for the next statewide general election (General Fund).

SUPPORT: (Verified 6/28/22)

Young Women's Center (source)
Abolish Bondage Collectively
ACLU Action California
Asian Solidarity Collective
Borderlands for Equity
CAIR California
California Lawyers for the Arts
California Native Vote Project
California Nurses Association
California Public Defenders Association
Change Begins With Me- Indivisible
Communities United for Restorative Youth Justice
Community Advocates for Just and Moral Governance
Del Cerro for Black Lives Matter
Democratic Club of Vista
Democratic Women's Club of San Diego County
Ella Baker Center for Human Rights

Episcopal Diocese of California
Freedom United
Friends Committee Legislation California
Hillcrest Indivisible
Initiate Justice
Legal Aid at Work
Legal Services for Prisoners with Children
Mission Impact Philanthropy
Muslim American Society
National Association of Social Workers, California Chapter
National Nurses United
Partnership for the Advancement of New Americans
Pillars of the Community
Prison Law Office
Progressive Democrats of America- Middle East Alliances
Racial Justice Coalition of San Diego
Rise Up San Diego
Root & Rebound
Rosen, Bien, Galvan & Grunfeld LLP
San Diego County Young Democrats
San Diego Progressive Democratic Club
San Diego - QTPOC
San Francisco Board of Supervisors
Showing Up for Racial Justice North County San Diego
Showing Up for Racial Justice San Diego
Sister Warriors Freedom Coalition
Social Workers for Equity & Leadership
Starting Over
Team Justice
Transformative In-Prison Workgroup
Transforming Young Minds for Future Solutions
University City Democratic Club
Uprise Theater
We the People- San Diego

OPPOSITION: (Verified 6/28/22)

East Valley Republican Women Patriots

ASSEMBLY FLOOR: 59-0, 3/21/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Choi, Cooley, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bigelow, Chen, Cooper, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Maienschein, Mathis, Nguyen, Patterson, Seyarto, Smith, Voepel

Prepared by: Stephanie Jordan / PUB. S. /
6/28/22 14:38:41

****** END ******

SENATE RULES COMMITTEE AJR 22
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AJR 22
Author: Gabriel (D), et al.
Introduced: 1/5/22
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 3/8/22
AYES: Bradford, Kamlager, Skinner, Wiener
NO VOTE RECORDED: Ochoa Bogh

ASSEMBLY FLOOR: 54-2, 1/10/22 - See last page for vote

SUBJECT: Select Committee to Investigate the January 6th Attack on the United States Capitol

SOURCE: Author

DIGEST: This resolution urges the United States House Select Committee to Investigate the January 6th Attack on the United States Capitol to uncover the facts, circumstances, and causes relating to the attack, and honors the individuals who died or were injured as a result of the attack.

ANALYSIS:

Existing law:

1) States that each state shall appoint electors pursuant to a process prescribed by the state's legislature to elect the President and Vice President of the United States. (U.S. Const., Art. II, Sec. 1)

2) States that electors shall sign and certify a list of the persons voted for and the number of votes for each, and transmit the list to the President of the Senate, who shall, in the presence of the U.S. Senate and House of Representatives, open the certificates and count the votes. (U.S. Const., Art II, Sec. 1; 12th Amend.)

3) States that the United States Congress may determine the time of choosing the electors, and the day on which they shall give their votes, which shall be the same throughout the country. (U.S. Const., Art II, Sec. 1)

4) Requires that the electors of each state forward, in a timely manner via registered mail, their lists and certificates to the President of the Senate. (3 U.S.C. §11)

5) Requires that Congress be in session on the sixth day of January succeeding every meeting of the electors, and that the Senate and the House of Representatives shall meet in the Hall of the House of Representatives at 1pm that day. (3 U.S.C. §15)

6) Requires that each house appoint two "tellers," who shall open and present, in alphabetical order by state, the certificates of the electors to the assembled members of the House and Senate. (3 U.S.C. §15)

7) Provides that upon the reading of the votes of each state, a tally of the results of each state shall be presented to the President of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons elected President and Vice President of the United States. (3 U.S.C. §15)

8) Provides that subsequent to the announcement of results by the President of the Senate, the President of the Senate shall call for objections, which must be made in writing, and signed by at least one Senator and one member of the House of Representatives. (3 U.S.C. §15)

9) Provides that when all objections have been received and read, those objections shall be submitted to each house of the legislature for their independent decisions. (3 U.S.C. §15)

10) Requires that no electoral vote or votes from any state which were regularly given by lawfully certified electors may be rejected, but that the House and Senate may concurrently may reject the vote or votes when they agree that such vote or votes have not been given by lawfully certified electors. (3 U.S.C. §15)

11) Provides that when the two houses separate to decide upon an objection, each Senator and Representative may speak to such objection for five minutes, and not more than once, but after such debate has lasted two hours, it is the duty of the presiding officer of each house to put the main questions without further debate. (3 U.S.C. §17)

This resolution:

1) Finds that President Donald J. Trump's actions incited a violent insurrection that attempted to prevent the peaceful transfer of power at the United States Congress on January 6, 2021.

2) Finds that the insurrection was a horrific assault on our democracy as established by the Constitution of the United States.

3) Finds that the insurrection resulted in multiple deaths, physical harm to over 140 members of law enforcement, and terror and trauma among staff, institutional employees, press, and Members of the United States Congress.

4) Finds that the United States Congress has established a bipartisan Select Committee to Investigate the January 6th Attack on the United States Capitol.

5) Resolves that the Legislature urge the Select Committee to Investigate the January 6th Attack on the United States Capitol to uncover the facts, circumstances, and causes relating to the domestic terrorist attack on the United States Capitol on January 6, 2021.

6) Resolves that the Legislature condemns the insurrection and assault on our democracy on January 6, 2021.

7) Resolves that the Legislature recognizes the courage, bravery, and sacrifice of those who were injured and killed trying to protect the United States Capitol and honors those individuals on the first anniversary of the insurrection.

8) Resolves that the Legislature rejects all forms of political violence.

9) Resolves that the members of the Legislature reaffirm their duty to support and defend the Constitution of the United States.

Comments

The author states:

> We would be remiss not to condemn the violent, treasonous insurrection at the United States Capitol that occurred a year ago. This was the beginning of a sustained attack on democracy. Since the riot, countless state legislatures have fought to roll back voting rights, elected leaders have refused to acknowledge the legitimacy of our fair and free elections while others continue promoting conspiracy theories and misinformation that weakens our faith in government. In the State of California we need to be a model of democracy where political

violence, voter suppression and lies misinformation is not tolerated. AJR 22 serves as a reminder for how fragile our democracy is and it must be protected. I introduced this resolution because I believe people of all political ideologies need to be on the record recognizing our democratic electoral process as a sacred institution and unequivocally opposing efforts to harm our democracy. This resolution is to honor the law enforcement officers who heroically protected the Capitol that day. We recognize the courage, bravery, and sacrifice of those who were injured and killed trying to protect the United States Capitol and honors those individuals on the first anniversary of the insurrection.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/8/22)

None received

OPPOSITION: (Verified 3/8/22)

None received

ASSEMBLY FLOOR: 54-2, 1/10/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Smith, Waldron
NO VOTE RECORDED: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Friedman, Gallagher, Holden, Kiley, Lackey, Mathis, Mayes, Nguyen, Patterson, Seyarto, Ting, Voepel

Prepared by: Alex Barnett / PUB. S. /
3/9/22 15:10:33

****** END ******