2021-22 SESSION

SENATE
THIRD READING PACKET

WEDNESDAY, AUGUST 31, 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 Wednesday, August 31, 2022.

Note	Measure	Author	Location
	SB 57	Wiener	Governor's Vetoes
+	SB 107	Wiener	Unfinished Business
	SB 396	Bradford	Unfinished Business
+	SB 422	Pan	Unfinished Business
+	SB 490	Caballero	Unfinished Business
RA	SB 523	Leyva	Unfinished Business
	SB 616	Rubio	Unfinished Business
	SB 679	Kamlager	Unfinished Business
+	SB 717	Dodd	Unfinished Business
+	SB 894	Jones	Unfinished Business
+	SB 910	Hurtado	Unfinished Business
	SB 987	Portantino	Unfinished Business
+	SB 1024	Jones	Unfinished Business
	SB 1084	Hurtado	Unfinished Business
	SB 1131	Newman	Unfinished Business
+	SB 1137	Gonzalez	Unfinished Business
+	SB 1158	Becker	Unfinished Business
+	SB 1208	Hueso	Unfinished Business
	SB 1279	Ochoa Bogh	Unfinished Business
+	SB 1338	Umberg	Unfinished Business
	SB 1342	Bates	Unfinished Business
	SB 1373	Kamlager	Unfinished Business
+	SB 1387	Limón	Unfinished Business
+	SB 1421	Jones	Unfinished Business
+	SB 1433	Roth	Unfinished Business
+	SB 1444	Allen	Unfinished Business
+	SB 1446	Stern	Unfinished Business
+	SB 1482	Allen	Unfinished Business
+	SB 1496	Committee on Governance and Finance	Unfinished Business
	AB 32	Aguiar-Curry	Special Consent Calendar No.33
	AB 99	Irwin	Assembly Bills - Third Reading File
	AB 102	Holden	Special Consent Calendar No.33
+	AB 179	Ting	Assembly Bills - Third Reading File
+	AB 209	Committee on Budget	Assembly Bills - Third Reading File
+	AB 211	Committee on Budget	Assembly Bills - Third Reading File
	AB 305	Maienschein	Special Consent Calendar No.33
	AB 321	Valladares	Special Consent Calendar No.33
	AB 719	Committee on Agriculture	Special Consent Calendar No.33
	AB 738	Nguyen	Assembly Bills - Third Reading File
	AB 777	McCarty	Assembly Bills - Third Reading File
+	AB 920	Aguiar-Curry	Assembly Bills - Third Reading File
	AB 923	Ramos	Special Consent Calendar No.33
	AB 937	Carrillo	Assembly Bills - Third Reading File
	AB 1051	Bennett	Special Consent Calendar No.33
	AB 1227	Levine	Assembly Bills - Third Reading File

\+ ADDS
RA Revised Analysis
* Analysis pending

Note	Measure	Author	Location
	AB 1262	Cunningham	Assembly Bills - Third Reading File
+	AB 1279	Muratsuchi	Assembly Bills - Third Reading File
	AB 1290	Lee	Special Consent Calendar No.33
	AB 1328	Irwin	Assembly Bills - Third Reading File
	AB 1355	Levine	Special Consent Calendar No.33
	AB 1395	Muratsuchi	Assembly Bills - Third Reading File
	AB 1608	Gipson	Assembly Bills - Third Reading File
	AB 1655	Jones-Sawyer	Special Consent Calendar No.33
	AB 1656	Aguiar-Curry	Assembly Bills - Third Reading File
	AB 1691	Medina	Assembly Bills - Third Reading File
	AB 1704	Chen	Special Consent Calendar No.33
	AB 1735	Bryan	Special Consent Calendar No.33
+	AB 1757	Cristina Garcia	Assembly Bills - Third Reading File
	AB 1794	Gipson	Special Consent Calendar No.33
	AB 1820	Arambula	Special Consent Calendar No.33
	AB 1823	Bryan	Special Consent Calendar No.33
	AB 1856	Medina	Special Consent Calendar No.33
	AB 1860	Ward	Special Consent Calendar No.33
	AB 1896	Quirk	Special Consent Calendar No.33
+	AB 1897	Boerner Horvath	Assembly Bills - Third Reading File
	AB 1942	Muratsuchi	Special Consent Calendar No.33
	AB 1982	Santiago	Special Consent Calendar No.33
	AB 1998	Smith	Assembly Bills - Third Reading File
	AB 2091	Mia Bonta	Assembly Bills - Third Reading File
	AB 2107	Flora	Assembly Bills - Third Reading File
+	AB 2133	Quirk	Assembly Bills - Third Reading File
	AB 2143	Carrillo	Assembly Bills - Third Reading File
	AB 2238	Luz Rivas	Special Consent Calendar No.33
	AB 2275	Wood	Special Consent Calendar No.33
	AB 2298	Mayes	Special Consent Calendar No.33
	AB 2306	Cooley	Special Consent Calendar No.33
	AB 2317	Ramos	Assembly Bills - Third Reading File
RA	AB 2352	Nazarian	Special Consent Calendar No.33
	AB 2480	Arambula	Special Consent Calendar No.33
	AB 2493	Chen	Assembly Bills - Third Reading File
	AB 2509	Fong	Special Consent Calendar No.33
	AB 2510	Wilson	Special Consent Calendar No.33
	AB 2596	Low	Special Consent Calendar No.33
	AB 2626	Calderon	Assembly Bills - Third Reading File
	AB 2668	Grayson	Special Consent Calendar No.33
	AB 2673	Irwin	Special Consent Calendar No.33
	AB 2774	Akilah Weber	Special Consent Calendar No.33
	AB 2798	Fong	Assembly Bills - Third Reading File
	AB 2910	Santiago	Assembly Bills - Third Reading File
	AB 2964	Committee on Agriculture	Special Consent Calendar No.33
	ACA 3	Kamlager	Assembly Bills - Third Reading File
+	ACR 177	Bloom	Assembly Bills - Third Reading File

+ ADDS
RA Revised Analysis
* Analysis pending

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VETO

Bill No: SB 57
Author: Wiener (D), et al.
Amended: 1/18/22
Vote: 27

SENATE HEALTH COMMITTEE: 7-3, 3/10/21
AYES: Pan, Eggman, Gonzalez, Leyva, Limón, Roth, Wiener
NOES: Melendez, Grove, Hurtado
NO VOTE RECORDED: Rubio

SENATE PUBLIC SAFETY COMMITTEE: 4-1, 4/6/21
AYES: Bradford, Kamlager, Skinner, Wiener
NOES: Ochoa Bogh

SENATE FLOOR: 21-11, 4/22/21
AYES: Allen, Atkins, Becker, Bradford, Cortese, Dodd, Durazo, Eggman, Gonzalez, Hertzberg, Hueso, Kamlager, Laird, Leyva, McGuire, Min, Pan, Roth, Skinner, Wieckowski, Wiener
NOES: Bates, Borgeas, Dahle, Glazer, Grove, Hurtado, Jones, Melendez, Nielsen, Ochoa Bogh, Wilk
NO VOTE RECORDED: Archuleta, Caballero, Limón, Newman, Portantino, Rubio, Stern, Umberg

ASSEMBLY FLOOR: 42-29, 6/30/22 - See last page for vote

SENATE FLOOR: 21-11, 8/1/22
AYES: Allen, Atkins, Becker, Bradford, Cortese, Dodd, Durazo, Eggman, Gonzalez, Hueso, Kamlager, Laird, Leyva, Limón, McGuire, Min, Pan, Roth, Skinner, Wieckowski, Wiener
NOES: Bates, Borgeas, Dahle, Glazer, Grove, Hurtado, Jones, Melendez, Nielsen, Ochoa Bogh, Wilk
NO VOTE RECORDED: Archuleta, Caballero, Hertzberg, Newman, Portantino, Rubio, Stern, Umberg

SUBJECT: Controlled substances: overdose prevention program

SOURCE: California Association of Alcohol and Drug Program Executives
California Society of Addiction Medicine
Drug Policy Alliance
HealthRIGHT 360
San Francisco AIDS Foundation
Tarzana Treatment Centers

DIGEST: This bill permits the City and County of San Francisco, the County of Los Angeles, the City of Los Angeles, and the City of Oakland to approve entities to establish and operate overdose prevention programs (OPPs) until January 1, 2028. This bill requires OPPs to provide specified services, including supervision by trained staff and referrals for treatment.

ANALYSIS:

Existing law:

1) Permits a licensed health care provider who is authorized by law to prescribe and issue standing orders for an opioid antagonist (to prevent fatal opioid overdose) to a person at risk of an opioid-related overdose or to a family member, friend, or other person if they receive training, as specified. [CIV §1714.22]

2) Permits, until January 1, 2026, a pharmacist or physician, without a prescription or a permit, to furnish hypodermic needles and syringes for human use to a person 18 years of age or older, and permits a person 18 years of age or older, without a prescription or license, to obtain hypodermic needles and syringes solely for personal use. [BPC §4145.5]

3) Permits the California Department of Public Health to purchase sterile hypodermic needles and syringes, and other supplies, for distribution to syringe exchange projects, as specified. [HSC §121349.1]

4) Authorizes a clean needle and syringe exchange project in any city, county, or city and county, as specified. Prohibits staff, volunteers, and participants of an exchange project from being subject to criminal prosecution for violation of any laws related to possession, furnishing, or transfer of hypodermic needles or syringes, as specified. [HSC §121349.1]

This bill:

1) Permits the City and County of San Francisco (SF), the County of Los Angeles (LAC), the City of Los Angeles (LA), and the City of Oakland to approve entities within their jurisdictions to establish and operate OPPs that satisfy specified requirements. Requires SF, LAC, LA, and Oakland, prior to approving OPPs, to provide local law enforcement and public health officials and the public with an opportunity to comment in a public meeting, as specified.

2) Requires an entity, in order to operate OPPs, to demonstrate that it will at a minimum:
   a) Provide a hygienic space supervised by trained staff, as specified, where people can consume controlled substances; provide sterile consumption supplies and collect used equipment; and provide secure hypodermic needle and syringe disposal services;
   b) Monitor participants for potential overdose, and provide treatment as necessary to prevent fatal overdose;
   c) Provide access or referrals to substance use disorder (SUD) and mental health treatment services, primary medical care, and social services;
   d) Provide access or referrals to HIV and viral hepatitis prevention, education, testing, and treatment;
   e) Provide overdose prevention education and access to or referrals to obtain naloxone hydrochloride or other federally approved overdose reversal medication;
   f) Educate participants regarding proper disposal of hypodermic needles and syringes, and provide participants with approved biohazard containers for syringe disposal;
   g) Provide reasonable security of the OPP site;
   h) Establish operating procedures for the OPP, including hours of operation, training standards for staff, a minimum number of personnel required to be onsite, a maximum number of participants to be served at one time, eligibility criteria for program participants, and an established relationship with the nearest emergency department of a general acute care hospital;
   i) Establish and make public a good neighbor policy that facilitates communication from and to local businesses and residences, to the extent they exist, to address any neighborhood concerns and complaints;
   j) Require that all staff present at the OPP during open hours be certified in cardiopulmonary resuscitation and first aid, as specified, and be authorized and trained to provide emergency administration of an opioid antagonist, as specified; and,

k) Establish a plan for staff and workplace safety.

3) Requires an approved entity to provide an annual report to the authorizing jurisdiction that includes information about the number of program participants, aggregate information regarding the characteristics of participants, the number of overdoses experienced and overdoses reversed onsite, and the number of persons referred to SUD treatment, primary medical care, and other services.

4) Requires all local jurisdictions that choose to participate and establish OPPs to confer and choose a single independent entity to conduct a peer-reviewed study of OPPs that includes:
   a) The statewide efficacy of OPPs, including, but not limited to, the number of participants, aggregate information regarding characteristics of the participants, overdoses onsite, reversals onsite, participants referred to treatment, hospitalizations after being seen at a program site, fatalities in hospitals after being seen at a program site, and fatalities onsite; and,

   b) Community impacts of OPPs, including, but not limited to, an increase or decrease in crime, syringe litter, public drug use, and aggregate information on the attitudes of nearby businesses and community members.

5) Requires the independent entity conducting the study to be either a private, nonprofit, nonpartisan research organization, or a research university in the United States classified as a Research University in the Carnegie Classification of Institutes of Higher Learning. Requires the participating jurisdictions and the selected entity to fund the study through private donations, grants, and local funds. Require a local jurisdiction, prior to opting in to the OPP pilot program, to consent to funding the component of the study relating to its jurisdiction and program. Requires the study to be submitted to the Legislature and the Governor's office on or before January 15, 2027.

6) Prohibits a person or entity, including, but not limited to, property owners, managers, employees, volunteers, clients or participants, and city and county employees from being arrested, charged, or prosecuted pursuant to drug-related crimes, as specified; or otherwise penalized solely for actions, conduct, or omissions related to the operation of and on the site of an OPP, as specified; or for conduct relating to the approval of an entity to operate an OPP; or the inspection, licensing, or other regulation of an OPP unless performed in a grossly negligent manner or in bad faith.

7) Prohibits limiting the Medical Board of California or Osteopathic Medical Board of California from taking administrative or disciplinary action against a

licensee for any action, conduct, or omission related to the operation of an OPP that violates the Medical Practice Act pursuant to each board's authority, as specified.

8) Sunsets the provisions in this bill on January 1, 2028.

Comments

Author's statement. According to the author, California is in the midst of an unprecedented overdose crisis that must be treated as a public health crisis. Since 2011, drug overdose has been the leading cause of accidental death among adults in California. In the context of the COVID-19 pandemic in the United States and in California, the already alarming rate of drug overdose is worsening. A recent study of Emergency Medical Services data in the *Journal of the American Medical Association* found overdose rates were doubled in May of 2020, compared to 2019. More than 40 states have documented increases in opioid overdoses since the beginning of shelter in place. OPPs, also called supervised consumption services, are a necessary intervention to prevent overdose deaths. Approximately 165 OPPs exist in ten countries, and have been rigorously researched and shown to reduce health and safety problems associated with drug use, including public drug use, discarded syringes, HIV and hepatitis infections, and overdose deaths. In these desperate times, this bill provides California with the opportunity to lead by example and to equip itself with another tool that is scientifically proven to help prevent and decrease overdose deaths.

NOTE: For a more extensive analysis, please see the Senate Health Committee analysis dated March 8, 2021.

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

SUPPORT: (Verified 6/30/22)

California Association of Alcohol and Drug Program Executives (co-source)
California Society of Addiction Medicine (co-source)
Drug Policy Alliance (co-source)
HealthRIGHT 360 (co-source)
San Francisco AIDS Foundation (co-source)
Tarzana Treatment Centers (co-source)
Access Support Network
ACLU California
AIDS Legal Referral Panel
Alcohol Justice

American Academy of HIV Medicine California/Hawaii Chapter
Any Positive Change
APLA Health
Asian American Drug Abuse Program, Inc.
Asian and Pacific Islander Wellness Center
Being Alive - LA
Bend the Arc: Jewish Action California
Bienestar Human Services
CA Bridge
California Association of Social Rehabilitation Agencies
California Consortium of Addiction Programs and Professionals
California Hepatitis Alliance
California Public Defenders Association
Californians for Safety and Justice
Center for Living and Learning
City of Los Angeles
City of Oakland
City of San Francisco
CLARE | Matrix
Community Clinic Association of Los Angeles County
Community Forward SF
Community Legal Services in East Palo Alto
County Behavioral Health Directors Association of California
County of Los Angeles
Desert AIDS Project
Ella Baker Center for Human Rights
End Hep C SF
End the Epidemics
Friends Committee on Legislation of California
Getting to Zero San Francisco
GLIDE
Gubbio Project
Happier Life Project
Harm Reduction Coalition
Harm Reduction Coalition of Santa Cruz County
Harm Reduction Services
HIV Education and Prevention Project of Alameda County
HIVE
Homeless Healthcare Los Angeles
HomeRise

Housing California
Immigrant Legal Resource Center
Inland Empire Harm Reduction
LA Family Housing
Larkin Street Youth Services
Law Enforcement Action Partnership
Legal Services for Prisoners with Children
London Breed, Mayor of San Francisco
Los Angeles Continuum of Care
Los Angeles County Board of Supervisors
Los Angeles District Attorney's Office
Los Angeles Homeless Services Authority
Los Angeles LGBT Center
Los Angeles Regional Reentry Partnership
Mendocino County AIDS/Viral Hepatitis Network
NAMI San Francisco
National Association of Social Workers, California Chapter
National Harm Reduction Coalition
National Health Law Program
Planned Parenthood Affiliated of California
Psychiatric Physicians Alliance of California
R Street Institute
Rafiki Coalition for Health & Wellness
Safer Alternatives Thru Networking and Education
San Francisco Bay Area Rapid Transit District
San Francisco Chamber of Commerce
San Francisco Community Health Center
San Francisco District Attorney Chesa Boudin
San Francisco Getting to Zero Consortium
San Francisco Hepatitis C Task Force
San Francisco Marin Medical Society
San Francisco Mayor London N. Breed
San Francisco Public Defender
San Francisco Senior and Disability Action
San Francisco Tax Payers for Public Safety
San Francisco Travel Association
Senior and Disability Action
Shanti Project
Sidewalk Project
Sierra Harm Reduction Coalition

Smart Justice California
St. James Infirmary
Team Lily
Tenderloin Neighborhood Development Corporation
Three Individuals
Tides Advocacy
Transitions Clinic Network
Treatment Action Group
Treatment on Demand Coalition
UCSF Alliance Health Project
Valley Community Healthcare
We the People - San Diego
Women Organized to Respond to Life Threatening Diseases

OPPOSITION: (Verified 6/30/22)

Alliance to Protect Children
California Association of Code Enforcement Officers
California Coalition Against Drugs
California College and University Police Chiefs Association
California District Attorneys Association
California Family Council
California Narcotic Officers' Association
California Peace Officers' Association
California State Sheriffs' Association
Capitol Resource Institute
Congress of Racial Equality
International Faith Based Coalition
Keep California Safe
Peace Officers' Research Association of California
Riverside Sheriffs' Association
San Marcos Prevention Coalition
Thaddeus Stevens Society
53 Individuals

ARGUMENTS IN SUPPORT: The co-sponsors of this bill and other supporters, largely health care providers and health and justice advocates, state that OPPs/SIFs, such as those that could be established under this bill, are sites where individuals are able to use controlled substances in a clinical setting with expert supervision and sterile supplies. They have been shown to reduce health and safety problems associated with drug use, including public drug use, discarded syringes,

HIV and hepatitis infections, and overdose deaths. People who used such programs in Canada were more likely to enter treatment and more likely to stop using drugs. They are an evidence-based, effective response to address the harms of drug use for individuals and communities. Supporters further state that in 2019 there was an emergency room admission for overdose in California every 11 minutes. Approximately 5,401 people died of drug overdose in California in 2018. Current data suggests that in the context of the COVID-19 pandemic in the United States and in California, the already-high rate of fatal drug overdose is worsening. Drug overdose has been the leading cause of accidental death in the United States, every year since 2011, and California is one of five states in which rates of overdose continue to rise. In the midst of the pandemic in 2020, SF had more deaths (621) attributable to overdose than COVID-19 (173). Supporters state that death rates among homeless people in SF also spiked since the first confirmed COVID-19 case in the Bay Area. Between March 30 and May 24 of 2020, 48 homeless people died, compared to 14 during the same period in 2019, according to data provided by the SF Department of Health. Physicians suggest that fatal drug overdose rates worsened, in part due to disruption of shelter and services due to the coronavirus pandemic. Supporters argue that the COVID-19 pandemic has increased the urgency of the need for OPP services. Unhoused individuals, including those who use drugs, are experiencing the brunt of the dislocations, economic pressures, and closure of services as a result of COVID-19. OPPs not only reduce overdose deaths but also reduce the need for ambulance calls, ED visits, and hospital beds—resources stretched thin by COVID-19. Supporters argue OPPs can prevent the potential transmission of COVID-19, as well as provide sterile equipment and additional opportunities for hand washing and sanitation. OPPs are complementary to other strategies of decarceration and reduced use of policing to address public health issues, such as drug use, by removing people who use drugs from the streets. Supporters state that in the context of the national debate to re-imagine public safety and emergency responses, OPPs should be in the foreground of the strategies used to address the needs of community members living at the intersection of homelessness, mental illness, and substance use. These programs will act as health settings that will mitigate overdose mortality rates, as well as emergency room use.

ARGUMENTS IN OPPOSITION: Opponents of this bill, largely law enforcement organizations, state that Governor Brown's previous veto of a similar bill is as applicable to the deficiencies in this bill as they were to the shortcomings of AB 186. Opponents argue that there is no pathway to treatment, nor is there any effort to assure that persons leaving OPPs are not so impaired as to harm themselves or others. Rather than a robust effort to get addicts into treatment, this bill concedes the inevitable and immutable nature of drug addiction and abuse.

Opponents state that missing from this bill are any strategies to appropriately utilize methadone alternatives, mandatory treatment protocols, onsite drug counseling, or even efforts to gradually wean an addict off the cycle of dependence. In effect, the unintended consequence of this bill is to normalize substance abuse. Opponents argue that this bill creates other problematical issues, including tremendous liability issues, law enforcement's inability to respond to calls, and the concentration of drug addicts. Opponents argue this bill also exacerbates the COVID-19 pandemic because people will congregate in one location and not socially distance.

GOVERNOR'S VETO MESSAGE:

I am returning Senate Bill 57 without my signature.

This bill authorizes certain jurisdictions to approve any number of "overdose prevention programs," often referred to as safe injection or consumption sites, where individuals may use illegal controlled substances at supervised facilities.

I have long supported the cutting edge of harm reduction strategies. However, I am acutely concerned about the operations of safe injection sites without strong, engaged local leadership and well-documented, vetted, and thoughtful operational and sustainability plans.

The unlimited number of safe injection sites that this bill would authorize - facilities which could exist well into the later part of this decade - could induce a world of unintended consequences. It is possible that these sites would help improve the safety and health of our urban areas, but if done without a strong plan, they could work against this purpose. These unintended consequences in cities like Los Angeles, San Francisco, and Oakland cannot be taken lightly. Worsening drug consumption challenges in these areas is not a risk we can take.

We should strive to ensure our innovative efforts are well planned, even when they start as pilots, to help mitigate the potential for unintended impacts. Therefore, I am instructing the Secretary of Health and Human Services to convene city and county officials to discuss minimum standards and best practices for safe and sustainable overdose prevention programs. I remain open to this discussion when those local officials come back to the Legislature with recommendations for a truly limited pilot program - with comprehensive plans for siting, operations, community partnerships, and fiscal sustainability that demonstrate how these programs will be run safely and effectively.

ASSEMBLY FLOOR: 42-29, 6/30/22
AYES: Aguiar-Curry, Alvarez, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Carrillo, Daly, Mike Fong, Friedman, Cristina Garcia, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Mayes, McKinnor, Medina, Mullin, Nazarian, O'Donnell, Quirk, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cooley, Cooper, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Irwin, Kiley, Lackey, Maienschein, Mathis, Nguyen, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Rodriguez, Salas, Seyarto, Smith, Valladares, Villapudua, Voepel, Waldron
NO VOTE RECORDED: Arambula, Calderon, Cervantes, Cunningham, Gabriel, Eduardo Garcia, Gipson, McCarty, Muratsuchi

Prepared by: Reyes Diaz / HEALTH / (916) 651-4111
8/23/22 9:42:04

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

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UNFINISHED BUSINESS

Bill No: SB 107
Author: Wiener (D), et al.
Amended: 8/25/22
Vote: 21

PRIOR SENATE VOTES NOT RELEVANT

SENATE JUDICIARY COMMITTEE: 8-2, 8/30/22 (Pursuant to Senate Rule 29.10)
AYES: Umberg, Caballero, Durazo, Gonzalez, Laird, Stern, Wieckowski, Wiener
NOES: Borgeas, Jones
NO VOTE RECORDED: Hertzberg

ASSEMBLY FLOOR: 60-19, 8/29/22 - See last page for vote

SUBJECT: Gender-affirming health care

SOURCE: Lieutenant Governor Eleni Kounalakis
Equality California
Planned Parenthood Affiliates of California

DIGEST: This bill enacts various safeguards against the enforcement of other states' laws that purport to penalize individuals from obtaining gender-affirming care that is legal in California.

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) Provides that each state shall give full faith and credit to the public acts, records, and judicial proceedings of every other state, and that Congress may prescribe the manner in which such acts, records, and proceedings shall be

proved and the effect thereof. (U.S. Const., art. IV, § 1; see also 28 U.S.C. § 1738.)

2) Provides that a person charged in any state with treason, felony, or other crime who fled from that state and is found in another state shall, on demand from the executive authority of the state from which the person fled, be delivered to the state having jurisdiction of the crime. (U.S. Const., art. IV, § 2; 18 U.S.C. § 3182.)

3) Establishes, under the federal Health Insurance Portability and Accountability Act (HIPAA), privacy protections for patients' protected health information and generally provides that a covered entity, as defined (including a health plan, health care provider, and health care clearing house), may not use or disclose protected health information except as specified or as authorized by the patient in writing. (45 C.F.R. §§ 164.500 *et seq*.)

4) Provides that all people have inalienable rights, including the right to pursue and obtain safety, happiness, and privacy. (Cal. Const., art. I, §1.)

5) Prohibits, under the California Medical Information Act (CMIA), 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, div. 1, pt. 2.6, §§ 56 *et seq*.)

6) Requires, under the CMIA, a provider of health care, health care service plan, or contractor to disclose medical information if the disclosure is compelled under specified circumstances, including by a court pursuant to an order of that court. (Civ. Code, § 56.10(b).)

7) Permits, under the CMIA, a provider of health care, health care service plan, or contractor to disclose medical information in specified circumstances to specified recipients, including to medical practitioners for diagnostic and health care purposes, insurers or other payors, and public agencies. (Civ. Code, § 56.10(c).)

8) 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 Civ. Proc., § 410.10.)

9) Provides that when a court, upon motion of a party or its own motion, finds that in the interest of substantial justice a civil action should be heard in a forum outside this state, the court must stay or dismiss the action in whole or in part on any conditions that may be just. (Code Civ. Proc., § 410.30.)

10) Enumerates, under the Interstate and International Depositions and Discovery Act, the procedure for obtaining discovery in California for a civil case pending in a jurisdiction outside of California. (Code Civ. Proc., pt. 4, tit. 4, ch. 12, art. 1, §§ 2029.100 *et seq*.)

11) Establishes the Uniform Child Custody Jurisdiction and Enforcement Act, which sets forth guidelines for California courts regarding the jurisdiction and disposition of family law and child custody matters involving parties in multiple states. (Fam. Code, div. 8, pt. 3, §§ 3400 *et. seq*.)

12) Enumerates, under the Insurance Information and Privacy Protection Act, requirements and steps insurers must take to protect the confidentiality of an insured's medical information. (Ins. Code, div. 1, pt. 2, art. 6.6, §§ 791 *et seq*.)

13) Sets forth a subpoena process by which the attendance of a witness may be required to appear before a court or magistrate in a criminal action, which may include a subpoena compelling the production of records or other documents. (Pen. Code, § 1326.)

14) Requires, subject to the Constitution and laws of the United States, the Governor of this state to have arrested and delivered up to the executive authority of any other state any person charged in that state with treason, felony, or other crime, who has fled from justice and is found in this state, provided specified requirements related to the request are met. (Pen. Code, §§ 1548.1, 1548.2.)

15) Defines "gender affirming health care" to mean medically necessary health care that respects the gender identity of the patient, as experienced and defined by the patient, which may include, but is not limited to, interventions to suppress the development of endogenous secondary sex characteristics or to align the patient's appearance or physical body with the patient's gender identity. (Welf. & Inst. Code, § 16010.2(b)(3)(A).)

16) Defines "gender affirming mental health care" to mean mental health care or behavioral health care that respects the gender identity of the patient, as experienced and defined by the patient, and may include, but is not limited to, developmentally appropriate exploration and integration of identity, reduction of distress, adaptive coping, and strategies to increase family acceptance. (Welf. & Inst. Code, § 16010.2(b)(3)(B).)

This bill:

1) Incorporates, generally, the definitions of "gender-affirming health care" and "gender affirming mental health care" from Welfare and Institutions Code Section 16010.2(b)(3) and the definition of "sensitive services" from Insurance Code Section 791.02(ac).

2) Prohibits a provider of health care, health care services, or contractor from releasing medical information relating to a person or entity allowing a child to receive gender-affirming health care or gender-affirming mental health care in response to any civil action based on another state's law that authorizes a person to bring a civil action against a person or entity that allows a child to receive gender-affirming health care or gender-affirming mental health care (an "anti-gender-affirming care action"). For purposes of this provision, "person" means an individual or government subdivision, agency, or instrumentality.

3) Limits the Interstate and International Depositions and Discovery Act to prohibit a clerk of a superior court in the county in which discovery in a foreign action is sought, or an attorney licensed in this state and retained by a party in a foreign action, from issuing a subpoena for discovery in this state based on a foreign subpoena if the foreign subpoena is based on an anti-gender-affirming care action.

4) Provides that the presence of a child in this state for the purpose of obtaining gender-affirming health care or gender-affirming mental health care is sufficient to grant a court in this state the jurisdiction to make an initial child custody determination for the child.

5) Provides that a court of this state has temporary emergency jurisdiction over a child if the child is present in the state because the child has been unable to obtain gender-affirming health care or gender-affirming mental health care.

6) Provides, notwithstanding general considerations to determine whether a court in this state is an inconvenient forum, a court shall not, in a case where the provision of gender-affirming health care or gender-affirming mental health care to the child is at issue, determine that it is an inconvenient forum where the law or policy of the other state that may take jurisdiction limits the ability of a parent to obtain gender-affirming health care or gender-affirming mental health care for their child.

7) Provides that a court, when determining whether to decline jurisdiction because the person seeking its jurisdiction has engaged in unjustifiable conduct, shall not consider as a factor weighing against the person seeking jurisdiction the removal of the child from a person with physical custody if there is evidence that the taking or retention of the child was for the purpose of obtaining gender-affirming health care or gender-affirming mental health care and the law or policy of the other state limits the ability of a parent to obtain gender-affirming health care or gender-affirming mental health care for their child.

8) Provides that a law of another state that authorizes a state agency to remove a child from their parent or guardian based on the parent or guardian allowing their child to receive gender-affirming health care or gender-affirming mental health care is against the public policy of this state and shall not be enforced or applied in a case pending in a court in this state.

9) Declares that it is the public policy of this state that an out-of-state arrest warrant for an individual based on violating another state's law against providing, receiving, or allowing their child to receive gender-affirming health care or gender-affirming mental health care is the lowest law enforcement priority.

10) Prohibits California state and local law enforcement agencies from knowingly making or participating in an arrest or participating in any extradition of an individual pursuant to an out-of-state arrest warrant for violation of another state's law against providing, receiving, or allowing a child to receive gender-affirming health care of gender-affirming mental health care if the care is lawful in this state, to the fullest extent permitted by federal law. This does not prohibit the investigation of any criminal activity in this state which may involve the performance of gender-affirming health care or gender-affirming mental health care provided that no information relating to any medical procedure performed on a specific individual may be shared with an out-of-state agency or any other individual.

11) Prohibits a provider of health care, health care service plan, or contractor from releasing medical information related to a person or entity allowing a child to receive gender-affirming health care or gender-affirming mental health care in response to any foreign subpoena that is based on an anti-gender-affirming-care action.

12) Includes a severability clause.

13) Incorporates chaptering-out amendments to avoid chaptering conflicts with AB 2091 (Bonta, 2022).

Comments

According to Human Rights Watch, as of March 2022, legislatures nationwide had introduced over 300 anti-LGBTQ+ bills, over 130 of which specifically targeted transgender people.[1] One particularly pernicious type of anti-transgender legislation that several states have passed or are considering is legislation to prevent gender-affirming medical care. As the Department of Health and Human Services explains, "[f]or transgender and nonbinary children and adolescents, early gender-affirming care is crucial to overall health and well-being."[2] Lack of gender-affirming care is a factor in the mental health crisis among transgender youth; according to one study, 56 percent of transgender youth have attempted suicide, and 86 percent of transgender youth have experienced suicidality.[3]

This bill makes several modifications to California law in order to provide protection for transgender youth and their families who seek medical care in California from regressive out-of-state laws that target gender-affirming care for minors. The bill also gives protections to the providers of such care. Both this bill and the other states' bills are intended to protect against implicate the Full Faith and Credit Clause[4] and the constitutional right to interstate travel.[5] At this time, the interplay between these two constitutional provisions and the constitutionality of the other states' laws have yet to be determined, so it is unclear whether this bill will run afoul of the constitution. In the event that certain provisions are found to violate the Full Faith and Credit Clause, however, this bill contains a severability clause to ensure the remainder of the bill stays in effect.

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

According to the Assembly Appropriations Committee, cost pressure (Trial Court Trust Fund (TCTF)) possibly in the mid-to-upper thousands of dollars in increased staff workload for family courts to hear and adjudicate child custody matters based

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[1] Human Rights Watch, Press Release, ICYMI: As Lawmakers Escalate Attacks on Transgender Youth Across the Country, Some GOP Leaders Stand Up for Transgender Youth (Mar. 24, 2022), https://www.hrc.org/press-releases/icymi-as-lawmakers-escalate-attacks-on-transgender-youth-across-the-country-some-gop-leaders-stand-up-for-transgender-youth (all links current as of August 29, 2022).
[2] Department of Health and Human Services, Office of Population Affairs, Gender-Affirming Care and Young People, *available at* https://opa.hhs.gov/sites/default/files/2022-03/gender-affirming-care-young-people-march-2022.pdf.
[3] Austin, et al., *Suicidality Among Transgender Youth: Elucidating the Role of Interpersonal Risk Factors*, Journal of Interpersonal Violence (Apr. 29, 2020).
[4] U.S. Const., art. IV, § 1.
[5] *See, e.g.*, *Edwards v. People of State of California* (1941) 314 U.S. 160, 173.

on emergency or other jurisdictional bases to ensure a child of another state is able to obtain gender-affirming care. One eight-hour court day costs $8,000 in workload. If five cases are filed statewide annually requiring family courts to adjudicate specified child custody proceedings requiring 16 hours of court time, the cost to the courts would be $80,000. 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 General Fund (GF) to perform existing duties.

SUPPORT: (Verified 8/29/22)

Lieutenant Governor Eleni Kounalakis (co-source)
Equality California (co-source)
Planned Parenthood Affiliates of California (co-source)
Attorney General Rob Bonta
California Insurance Commissioner Ricardo Lara
ACLU California Action
American Urological Association
California Coalition for Youth
California Medical Association
California Nurse Midwives Association
City of Encinitas
City of Long Beach
City of West Hollywood
County of Los Angeles District Attorney's Office
County of San Mateo
NARAL Pro-Choice California
National Association of Social Workers – California Chapter
Society for Pediatric Urology

OPPOSITION: (Verified 8/29/22)

Alliance Defending Freedom
American College of Pediatricians
California Capitol Connection
California Family Council
Changed Movement
Concerned Women for America
International Federation for Therapeutic & Counselling Choice
Our Duty

ARGUMENTS IN SUPPORT: According to Equality California, one of the co-sponsors of this bill:

> Despite longstanding evidence demonstrating how anti-LGBTQ+ legislation inflicts measurable harm on the health and well-being of the LGBTQ+ community, hundreds of anti-LGBTQ+ bills have been proposed nationally in 2022, and roughly half of those bills target the transgender community. One proposal alleged that gender-affirming care for transgender youth constitutes child abuse and should be grounds to remove children from the parents who support and affirm them. Other states are attempting to classify the provision of gender-affirming health care as a crime warranting prison time and are threatening parents with criminal penalties if they attempt to travel to another state in order to secure life-saving gender-affirming care for their child. While attacks on the transgender community are not new, we are experiencing alarmingly blatant attempts to use legislation, policy, and political rhetoric to restrict or eliminate the autonomy, freedom, and existence of transgender people across the country.
>
> While anti-LGBTQ+ legislation inflicts measurable harm on our communities, it is important to remember that the reverse is also true—pro-equality policies are a boon to LGBTQ+ youth, who attempt less often when they have access to LGBTQ+ and gender-affirming spaces at home, at school, with friends and family, and in their broader communities. SB 107 will move the needle toward a California that is healthy, just, and fully equal for all LGBTQ+ people and for transgender youth in particular.

ARGUMENTS IN OPPOSITION: This bill is opposed by several out-of-state anti-transgender organizations as well as the California Family Council. As the only wholly California-based opponent to this bill, the California Family Council writes:

> Despite what the bill author says, there is no universal agreement within the medical community regarding the best way to provide healthcare to transgender-identified individuals. The governments and medical institutions of the United Kingdom, Sweden, and Finland have rejected prioritizing "gender-affirming" treatment in favor of an emphasis on mental health.
>
> The vast majority of minors with gender dysphoria desist by adulthood if they are not transitioned and given puberty blockers and cross-sex hormones. Because of this, many doctors and medical professionals refuse to provide transitioning drugs and surgeries, especially on minors, knowing the long-term

side effects and the lack of hard scientific evidence regarding the efficacy of "gender-affirming" treatments.

ASSEMBLY FLOOR: 60-19, 8/29/22
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, 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, 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: Irwin

Prepared by: Allison Meredith / JUD. / (916) 651-4113
8/30/22 19:57:09

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

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

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 422
Author: Pan (D)
Amended: 8/24/22
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 4/19/21
AYES: Cortese, Durazo, Laird, Newman
NOES: Ochoa Bogh

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

SENATE FLOOR: 31-8, 6/1/21
AYES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NOES: Bates, Borgeas, Dahle, Grove, Jones, Nielsen, Ochoa Bogh, Wilk
NO VOTE RECORDED: Melendez

ASSEMBLY FLOOR: Not available

SUBJECT: Personal services contracts: state employees: physician registry for state hospitals

SOURCE: American Federation of State, County and Municipal Employees Union of Associated Physicians and Dentists AFSMCE Local 2620

DIGEST: This bill amends existing law relating to personal services contracts by the state to include a three-year physician registry pilot program for the Patton State Hospital within the jurisdiction of the Department of State Hospitals (DSH), among other provisions.

Assembly Amendments:

- Establish a three-year physician registry pilot program for the Patton State Hospital within the jurisdiction of DSH, among other provisions.

- Delete provisions that would have established physician registries for wider groups of state employees and would have required the Department of Corrections and Rehabilitation to participate in the registry.

- Delete provisions that would have developed standards for and authorized certain personal services contracts, as specified.

ANALYSIS:

Existing law:

1) Establishes the State Civil Service Act to provide a comprehensive personnel system for the state in which appointments are based upon merit and fitness ascertained through practical and competitive examination (Government Code § 18500).

2) Requires that all persons who provide services to the state under conditions that the State Personnel Board (SPB) determines constitute an employment relationship shall hold a civil service appointment unless otherwise exempt by the constitution (GC § 19130).

3) Creates the California Department of Human Resources (CalHR) with powers, duties, and authorities necessary to operate the state civil system pursuant to Article VII of the California Constitution, the California Government Code, the merit principle, and applicable rules duly adopted by SPB (GC § 18502).

4) Creates, under the Dills Act, a system of collective bargaining between the state and its employees' exclusive representatives to negotiate for terms and conditions of employment (GC § 3512 et seq.).

5) Establishes standards for the state's use of personal service contracts to achieve savings if the contract meets certain conditions, including that the contract does not displace civil service employees. Also, the contracted services must not be available within civil service, cannot be performed satisfactorily by civil service employees, or are of such a highly specialized or technical nature that the necessary expert knowledge, experience, and ability are not available through the civil service system (GC § 19130).

This bill:

1) Requires Department of State Hospitals (DSH) to establish, by January 1, 2024, a physician registry as a three-year pilot program for the Patton State Hospital to be maintained by DSH and composed of members of State Bargaining Unit 16 (BU 16), who may elect to join the registry.

2) Establishes the compensation of a physician who works additional hours as a result of being on the registry to be 135 percent of their normal base hourly wage without benefits of any kind, and authorizes DSH to pay a higher rate if it determines that a higher rate is necessary, as provided.

3) Requires DSH to conduct and post a semiannual survey, to be jointly developed by DSH and BU 16, of managers and employees to determine the efficacy of the registry on its internet website.

4) Requires DSH to, by January 10 of 2025, 2026, and 2027, to submit a report to the Legislature, as provided, that includes a study of the effectiveness of the registry to determine if the registry compensation rates were successful in addressing operational needs for flexible services at lower costs than contract registries.

5) Requires, if the pilot program demonstrates overall savings to the state based on the report to the Legislature by January 10, 2026, DSH to extend and maintain the use of the physician registry for all state hospitals under its jurisdiction beginning on January 1, 2027.

6) Makes implementation of these provisions subject to an appropriation in the annual Budget Act or other statute, and require the DSH to make a budgetary request for the funds necessary to establish and maintain the registry for the duration of the pilot.

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

According to the Assembly Appropriations Committee, *the costs relating to the prior, and more expansive, version of this bill would result in* the following:

1) Potentially significant ongoing General fund (GF) costs, of an unknown amount, to the CalHR, until January 1, 2027, to develop and establish a health professional registry;

2) Ongoing GF costs of $779,000 annually, until January 1, 2027, to the DSH for six additional positions, one at its headquarters and five in its state hospitals;

3) Ongoing GF costs of $776,000 annually, until January 1, 2027, to California Correctional Health Care Services for 6.5 additional positions to fill the coordinator role and the activities associated with the study and surveys; and,

4) Potential cost savings to departments, until January 1, 2027, to the extent hiring health professionals off the CalHR registry creates cost savings when compared to hiring health contractors through a private company.

SUPPORT: (Verified 8/28/22)

American Federation of State, County and Municipal Employees (co-source)
Union of Associated Physicians and Dentists AFSMCE Local 2620 (co-source)

OPPOSITION: (Verified 8/28/22)

None received

ARGUMENTS IN SUPPORT: According to the author, "This bill would allow state physicians to work additional hours and improve patient care, while providing cost savings to the State. This registry would allow state physicians and other medical professionals to remain at their place of employment but seek additional work through flexible scheduling."

According to the sponsor, "California annually expends about $100 million on contract physicians who work temporarily treating patients in state facilities. SB 422 will save millions of dollars for the state by utilizing available state professionals, rather than expensive contractors, all the while improving health outcomes for patients under care in CDCR and DSH by improving continuity of care."

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8/30/22 23:14:05

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

Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SB 490
Author: Caballero (D)
Amended: 8/25/22
Vote: 21

PRIOR SENATE VOTES NOT RELEVANT

ASSEMBLY FLOOR: Not available

SUBJECT: The Buy American Food Act: public institutions: purchase of nondomestic agricultural food products

SOURCE: Author

DIGEST: This bill requires a public institution that receives federal meal reimbursement funding to provide prepared meals to include in their solicitation for bids and contracts that only the purchase of agricultural food products grown, packed, or processed domestically is authorized, unless, among other things, the bid or price of the nondomestic agricultural product is more than 25% lower than the bid or price of the domestic agricultural product, as specified.

Assembly Amendments delete the current contents of the bill and instead require a public institution that receives federal meal reimbursement funding to provide prepared meals to include in their solicitation for bids and contracts that only the purchase of agricultural food products grown, packed, or processed domestically is authorized, unless, among other things, the bid or price of the nondomestic agricultural product is more than 25% lower than the bid or price of the domestic agricultural product, as specified.

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.

7) Establishes, under the National School Lunch Act, a federal subsidy program to provide free and reduced-price meals to eligible children in schools. As a condition of participation, federal law requires the State Department of Education and participating local educational agencies to comply with a provision, known as the Buy American provision, that requires school food

authorities to purchase, to the maximum extend possible, domestic commodities or products.

8) Establishes, under federal regulations, procedures for administrative review and compliance with specific program requirements, including the Buy American provisions.

This bill:

1) Requires a public institution, beginning on January 1, 2024, that receives federal meal reimbursement funding to provide prepared meals and that solicits bids for the purchase of an agricultural food product to include in their solicitation for bids and contracts that only the purchase of agricultural food products grown, packed, or processed domestically is authorized, unless any of the following applies:

   a) The bid or price of the nondomestic agricultural food product is more than 25 percent lower than the bid or price of the domestic agricultural food product.

   b) The quality of the domestic agricultural food product is inferior to the quality of the agricultural food product grown, packet, or produced nondomestically.

   c) The agricultural food product is not produced or manufactured domestically in sufficient and reasonably available quantities of a satisfactory quality to meet the needs of the public institution.

2) Provides that the provision above does not apply to any of the following:

   a) The child and Adult Care Food Program.

   b) The Summer Food Service Program

   c) The Department of Corrections and Rehabilitation.

3) Provides that the provisions above shall not apply to agricultural food products purchased by or provided to a public institution through the United States Department of Agriculture.

4) Requires a public institution subject to this bill to retain documentation relating to bids or contracts for, and for the purchase of agricultural food products for three years from the date of purchase.

5) Requires the documentation to be retained to be made available to the public upon request during the applicable three-year period.

6) Provides that if a vendor substitutes an agricultural food product without notice or because a product is not available, the public institution shall not be in violation of this bill.

7) Provides that this bill shall neither limit nor expand California's obligations under the Agreement on Government Procurement of the WTO.

8) Exempts local educational agencies with an annual federal meal reimbursement of less than $1 million.

9) Authorizes any local educational agency participating in a federal school lunch or school meal program, in order to monitor price gouging, to report to the State Department of Education any increase in the prices of agricultural food products that exceeds 25% of the previous year's prices and is encouraged to retain documentation to support the complaint.

10) Requires the State Department of Education to annually post on its internet website the aggregate information on reports received from local educational agencies on price increases.

11) Requires the State Department of Education to add a question to a current administrative review regarding any increases of the price of agricultural food products and the annual costs associated with this bill.

12) Defines "agricultural food product" to mean a fresh or processed product, including fruits, nuts, vegetables, herbs, mushrooms, dairy, shell eggs, honey, grains, livestock, meats, poultry meats, and fish, including shellfish.

13) Defines "public postsecondary educational institution" to mean the California Community Colleges and the California State University, but not the University of California.

14) Includes a sunset date of January 1, 2029.

Background

Purpose of the Bill. According to the author's office, "SB 490 would improve the quality and safety of state provided nutrition programs, protect California workers, and reward California's agricultural industry by strengthening federal Buy American policy at the state level. The bill provides protections to ensure that the

Buy American provisions allow for affordable meals. Buy America policies ensure our residents consume food of the highest quality and safety that is reflective [of] our values by supporting local farmers, jobs, and our economy, as well as reinforcing California's commitment as a world leader on climate change, environmental safeguards, and labor protections."

Buy American. Several federal child and adult meal programs include the "Buy American Provision." The Buy American Provision of the federal National School Lunch Act requires school food authorities to purchase, to the maximum extent practicable, domestic commodities or products. Exemptions from the Buy American Provision allow for the purchase of non-domestic products if the cost of a domestic product is "significantly higher than" the non-domestic product or if the domestic product is not produced in sufficient and reasonably available quantities of a satisfactory quality.

Existing statutes and regulations do not provide a definition of or threshold for what constitutes "significantly higher" costs to allow the purchase of non-domestic commodities or products. The California Department of Education is tasked with monitoring compliance with the Buy American Provision and determining what constitutes "significantly higher" costs.

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.

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) would have required school districts 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 domestic agricultural product that is grown outside of California unless the bid or price of the California-grown agricultural product produced outside of the state. Additionally, the bill would have prohibited California Community Colleges, California State University, and all local educational agencies, and would have encouraged the University of California to refrain, from purchasing agricultural food products grown, packed, or processed nondomestically unless the price of the nondomestic agricultural food product is more than 25% lower than the bid or price of the domestic agricultural food product and the quality of the product is comparable to the product grown in California. (Never Heard in the Assembly Education Committee)

AB 778 (E. Garcia, 2022) requires all California state-owned or state-run institutions, except segments of public postsecondary education and local educational agencies, that purchase agricultural food products, as defined, to implement necessary practices to achieve specific targets for the purchase of agricultural food products grown or produced in the state in a calendar year, as specified.

AB 1248 (Eduardo Garcia, 2020) would have required all California state-owned or state-run institutions, including public universities and colleges and school districts, that purchase agricultural products to only purchase an agricultural product grown in California unless the agricultural product is not available from an in-state source or is not grown in the state. (Never heard in the Senate Governmental Organization 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.

AB 199 (Holden, 2013) would have created the Choose California Act to give preference for California grown agricultural products. (Vetoed by Governor Brown)

AB 1960 (Ma, 2010) would have encouraged state agencies to purchase California produced, or produced and processed, fruit, nuts, and vegetables if the price is equal to or less than, imported fruits, nuts, and vegetables. (Held in Senate Rules Committee)

AB 2994 (Frommer, 2004) would have required state agencies to give preference to the purchase of lumber and certain solid wood products harvested from forests in California when price, fitness, and quality are equal. (Vetoed by Governor Schwarzenegger)

AB 801 (Salinas, 2001) would have required California state-owned or state-run institutions to purchase agricultural products grown in California before those that are grown out-of-state, provided the prices for California grown products do not exceed the lowest price of products grown outside California by more than 5%. It also included California public schools, but only when price and quality were equal to products grown outside of California. (Vetoed by Governor Davis)

SB 1893 (Perata, 2000) would have required state agencies and school districts to purchase agricultural products produced in California if the cost and quality are equal or superior to those produced outside California. If California products were not found to be equal, preference was to be given to products produced in other states over foreign products, if the cost and quality are equal. (Held in Senate Appropriations Suspense File)

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

SUPPORT: (Verified 8/30/22)

Agricultural Council of California
American Pistachio Growers
Association of California Egg Farmers
Butte County Rice Growers Association
California Canning Peach Association
California Cherry Growers and Industry Association
California Citrus Mutual
California Fresh Fruit Association
California Labor Federation, AFL-CIO
California Pear Growers Association
California Tomato Growers Association
California Walnut Commission
California Women for Agriculture
Far West Equipment Dealers Association
Olive Oil Commission of California
Pacific Coast Producer
Sun-Maid Growers of California
Sunsweet Growers
Teamsters Food Processing Division
Wawona Frozen Foods

OPPOSITION: (Verified 8/30/22)

Association of California School Administrators
California Association of Business Officials
California County Superintendent Educational Services Association
California School Boards Association
California School Nutrition Association
Los Angeles Unified School District

ARGUMENTS IN SUPPORT: Supporters argue that, "SB 490 supports California's high standards by helping ensure billions in taxpayers funds are used to purchase food in compliance with our critical standards. This is beneficial for the people served, including some of the most vulnerable in our society, and it supports the local economy and protects jobs. By requiring bid solicitation to include a Buy American provision, SB 490 furthers President Biden's efforts and puts California at the forefront in the U.S. to advance this critical policy."

ARGUMENTS IN OPPOSITION: According to opponents of the bill, "the Budgets Act of 2021 and 2022 included universal meals for all K-12 schools to ensure that all students, regardless of ability to pay, have access to school meals and included appropriations for the expansion of this program. The appropriations are tied to the difference of the per meal reimbursements that are currently provided by the Federal school meals program but does not recognize the historic skyrocketing inflation rates nor any new policy, such as SB 490, that will force schools to exceed their existing meal budgets by or just under 25 percent of the current cost of food. As a result, this policy threatens the ability of schools to fully implement universal meals, with the cost of food likely to far exceed the current appropriation."

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8/30/22 23:16:32

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

SENATE RULES COMMITTEE SB 523
Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SB 523
Author: Leyva (D), et al.
Amended: 8/25/22
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-0, 4/5/21
AYES: Cortese, Durazo, Laird, Newman
NO VOTE RECORDED: Ochoa Bogh

SENATE HEALTH COMMITTEE: 8-2, 4/28/21
AYES: Pan, Eggman, Gonzalez, Leyva, Limón, Roth, Rubio, Wiener
NOES: Melendez, Grove
NO VOTE RECORDED: Hurtado

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

SENATE JUDICIARY COMMITTEE: 8-2, 8/30/22 (Pursuant to Senate Rule 29.10)
AYES: Umberg, Caballero, Durazo, Gonzalez, Laird, Stern, Wieckowski, Wiener
NOES: Borgeas, Jones
NO VOTE RECORDED: Hertzberg

SENATE FLOOR: 32-5, 6/1/21
AYES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NOES: Borgeas, Jones, Nielsen, Ochoa Bogh, Wilk
NO VOTE RECORDED: Bates, Grove, Melendez

ASSEMBLY FLOOR: 62-11, 8/29/22 - See last page for vote

SUBJECT: Contraceptive Equity Act of 2022

SOURCE: Essential Health Access
NARAL Pro Choice California
National Health Law Program

DIGEST: This bill establishes the Contraceptive Equity Act of 2022 (Act), which ensures coverage for federal Food and Drug Administration-approved contraceptive drugs, devices, and products without cost-sharing and medical management applicable to all insureds and enrollees, as specified, and requires employee health benefit plan contracts provided by the California Public Employees Retirement System (CalPERS), the University of California (UC), the California State University (CSU), and plans directly operated by a bona fide public or private institution of higher learning to comply with the Act. Establishes specified limitations on employers with respect to an employee's reproductive decision making.

Assembly Amendments (1) add a requirement under the Public Employees' Health Benefits for coverage of vasectomies and related services, as specified, and require health plans and insurers to cover vasectomies without prior authorization, and hysterectomies and other similar sterilization procedures; (2) define therapeutic equivalents, are as defined the by the Food and Drug Administration (FDA); (3) require request for coverage to be in compliance with timely access requirements; (4) delete the definition of health care provider; (5) add reproductive health decision making to antidiscrimination provisions regulated by the Civil Rights Department; (6) define reproductive health decision making as including but not limited to, a decision to use or access a particular drug, device, product, or medical services for reproductive health, as specified; (7) make it unlawful for an employer to require, as a condition of employment, or a benefit of employment, the disclosure of information related to an applicant's or employee's reproductive health decision making; (8) delay the effective date of the contraceptive coverage mandates imposed by this bill to 2024; (9) apply the mandate to all subscribers and enrollees; (10) indicate that a prescription is not required to trigger coverage of over-the-counter FDA-approved contraceptive drug, devices, and products, and require point-of-sale coverage for over-the-counter FDA-approved contraceptive drugs, devices, and products at in-network pharmacies without cost sharing or medical management restrictions; (11) include clinical services related to the provision or use of contraception, including consultations, examinations, procedures, device insertion, ultrasound, anesthesia, patient education, referrals, and counseling; (12) require if there is no therapeutic equivalent generic substitute available in the market, a health plan or insurer to provide coverage without cost-sharing for the original, brand name contraceptive; (13) refer to provider if a drug,

device, or product is medically inadvisable, including consideration of severe side effects, differences in permanence or reversibility; (14) permit the Department of Managed Health Care (DMHC) to promulgate regulations regarding alternative prescribed contraceptive; (15) prohibit a plan or insurer from infringing upon a patients choice of contraceptive drug, device, or product, or impose restrictions or delays; (16) clarify Medi-Cal coverage for these drugs, devices, and products; (17) delete a disclosure requirement of religious employers; (18) address chaptering-out conflicts with AB 1766, and AB 2960; and, (19) make other clarifying changes.

ANALYSIS:

Existing law:

1) Establishes DMHC to regulate health plans under the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act); California Department of Insurance to regulate health and other insurance; and, the Department of Health Care Services to administer the Medi-Cal program. [HSC §1340, et seq., INS §106, et seq., and WIC §14000, et seq.]

2) Requires a health plan contract, except for a specialized health plan contract, and a disability insurance policy, that provides outpatient prescription drug benefits to provide coverage for all FDA-approved contraceptive drugs, devices, and other products for women, including all FDA-approved contraceptive drugs, devices, and products available over the counter (OTC), as prescribed by the enrollee's provider, voluntary sterilization, patient education and counseling on contraception, and follow up services, as described. [HSC §1367.25 and §10123.196]

3) Permits a religious employer to request a health plan contract or disability insurance policy without coverage for contraceptive methods that are contrary to the religious employer's religious tenets, and requires a contract or policy to be provided without contraceptive methods. Requires an employer that invokes the exemption to provide written notice to any prospective employee once an offer of employment has been made, and prior to that person commencing that employment. [HSC §1367.25 and §10123.196]

This bill:

1) Prohibits, commencing January 1, 2024, the CalPERS board, UC, and the CSU from approving a health benefit plan contract for employees that does not comply with the contraceptive coverage requirements of existing law and this bill.

2) Makes services and contraceptive coverage requirements under existing law and this bill applicable to all subscribers, policyholders, insureds and enrollees, and a plan, approved on or after January 1, 2024, that is otherwise exempt from the Knox-Keene Act, that is directly operated by a bona fide public or private institution of higher learning which directly provides health care service only to its students, faculty, staff, administration, and their respective dependents.

3) Prohibits a health plan and insurer from requiring a prescription to trigger coverage of OTC FDA-approved contraceptive drugs, devices, and products.

4) Requires a health plan and insurer to provide point-of-sale coverage for OTC FDA-approved contraceptive drugs, devices, and products at in-network pharmacies without cost-sharing or medical management restrictions.

5) Requires, if a therapeutically equivalent is not available or medically inadvisable, the plan or insurer to defer to the determination and judgment of the attending provider and provide coverage for the alternative prescribed contraceptive drug, device, product, or service without imposing any cost-sharing requirements. States that medical inadvisability may include considerations such as severity of side effects, differences in permanence or reversibility of contraceptives, and ability to adhere to the appropriate use of the drug or item, as determined by the attending provider.

6) Prohibits a health plan or insurer from infringing upon an enrollee's/insured's choice of contraceptive drug, device, or product, including prior authorization, step therapy, or other utilization control techniques, except as authorized in the law.

7) Defines provider, for purposes of furnishing family planning services, to include a pharmacist, as specified.

8) Prohibits a health plan or insurer that is required to cover a 12-month supply of FDA-approved, self-administered hormonal contraceptives dispensed or furnished by a provider or pharmacist, from requiring an enrollee or insured to make any formal request for such coverage other than a pharmacy claim.

9) Prohibits the exclusion from coverage for a religious employer from applying to a contraceptive drug, device, procedure, or other product that is used for purposes other than contraception.

Comments

According to the author, this bill is the Contraceptive Equity Act of 2021 and seeks to expand and modernize birth control access in California, and ensure greater contraceptive equity statewide, regardless of an individual's gender or insurance coverage status.

California Health Benefits Review Program (CHBRP) analysis key findings include:

Medical effectiveness. Over the course of a year, sexually active women of child bearing age not using contraceptives have an 85% chance of becoming pregnant, with a 46% unintended pregnancy rate among women discontinuing previous contraceptive use. CHBRP found clear and convincing evidence that using any of the contraceptives impacted by this bill is more effective than not using any contraception in preventing unintended pregnancies. CHBRP also found there is clear and convincing evidence that condoms are effective at preventing transmission of STIs/HIV based on a systematic review of 14 studies. There is also clear and convincing evidence based on a systematic review of five randomized controlled trials (RCTs) that spermicide is not effective in stopping transmission of STIs/HIV. There is insufficient evidence to determine how insurance coverage for contraceptives affected by this bill (i.e., nonprescription OTC contraceptives and vasectomy) impacts contraceptive utilization. There is insufficient evidence on the impact of utilization management policies on contraceptive utilization.

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

According to the Assembly Appropriations: Committee:

- Costs between approximately $250,000 and $470,000 annually to the Division of Labor Standards Enforcement (DLSE) to investigate discrimination or retaliation complaints and enforce cases. DLSE notes it has no direct frame of reference to assume how many people may experience discrimination or retaliation and also file a complaint, but estimates between 50 to 100 new claims as a result of this bill (Special Fund).
- Costs of approximately $895,000 annually to UC to make changes across the three insurance plans it operates (General Fund).
- Costs of an unknown amount to CSU, if employer contributions increase as a result of this bill. CSU notes this bill does not affect its student health centers, which already provide no-cost birth control options for students.

- Costs of approximately $7,000 in fiscal year (FY) 2021-22 and $17,000 in FY 2022-23 to the Department of Insurance to review health insurance polies and adopt regulations (Special Fund).
- Costs of approximately $100,000 in FY 2021-22, $407,000 in FY 2022-23 and $300,000 ongoing to DMHC to review health plan polices, adopt regulations and provide enforcement (Special Fund).
- Costs of an unknown amount to CalPERS. CalPERS indicates all of its plans would incur some cost for the elimination of member cost sharing for OTC contraception and sterilization procedures. As an example, CalPERS members in PPO plans paid about $137,000 in cost sharing for tubal ligation and vasectomy procedures in 2019. This member-paid amount would be absorbed by the health plans under this bill. However, upfront costs to plans could be offset in the long-term, assuming utilization of these benefits increases, thus decreasing the number of unintended pregnancies and related services.
- According to an analysis of this bill by CHBRP, this bill would not impact the coverage provided to Medi-Cal managed care plan beneficiaries or related premiums. CHBRP assume all OTC contraceptives would be available under the pharmacy benefit and vasectomies are already covered without cost sharing under Medi-Cal.

SUPPORT: (Verified 8/29/22)

Essential Access Health (co-source)
NARAL Pro-Choice California (co-source)
National Health Law Program (co-source)
Access Reproductive Justice
ACLU California
American Academy of Pediatrics, California
American Association of University Women, California
American Civil Liberties Union
American College of Obstetricians and Gynecologists District IX
APLA Health
Bienestar Human Services
Black Women for Wellness Action Project
Business & Professional Women of Nevada County
California Academy of Family Physicians
California Alliance for Retired Americans
California Black Health Network
California Faculty Association
California Health+ Advocates

California Hepatitis Alliance
California Latinas for Reproductive Justice
California Nurse-Midwives Association
California Society of Health System Pharmacists
California State Parent Teacher Association
California Women's Law Center
CAPSLO Center for Health & Prevention
Children's Hospital Los Angeles
Citizens for Choice
Community Clinic Association of Los Angeles County
Courage California
End Hep C SF
End the Epidemics
Essential Access Health
Khmer Girls in Action
Los Angeles LGBT Center
MPact Fijate Bien Program
National Association of Social Workers, California Chapter
National Center for Youth Law
National Council of Jewish Women California
National Council of Jewish Women Los Angeles
Plan C
Planned Parenthood Affiliates of California
Religious Coalition for Reproductive Choice California
SF AIDS Foundation
The Center for Health and Prevention
The Los Angeles Trust for Children's Health
The Women's Building
Training in Early Abortion for Comprehensive Healthcare
Woman Organized to Respond to Life-threatening Diseases
Women's Foundation California
Women's Health Specialists

OPPOSITION: (Verified 8/29/22)

America's Health Insurance Plans
Association of California Life and Health Insurance Companies
California Association of Health Plans
California Catholic Conference
Right to Life League

ARGUMENTS IN SUPPORT: NARAL Pro-Choice California writes despite the progress made to expand access to family planning coverage and care, millions of Californians are not afforded the same benefits because the state contraceptive mandate is not currently applicable to their health plans. State workers, university employees, and college students may be denied their birth control option of choice without cost-sharing or restrictions. They also lack coverage for a full year's supply of self-administered contraceptives dispensed at once, like Californians enrolled in Knox-Keene regulated plans. It's time for California to modernize and expand our contraceptive equity laws to reduce barriers to contraceptive care, improve sexual and reproductive health outcomes, and create greater health equity. Access Reproductive Justice writes this bill removes barriers to sexual and reproductive health care and builds the power of Californians to demand health, justice, and dignity, and birth control is essential health care and California can and must advance proactive solutions to ensure that Californians get the birth control they want, when they need it, without delay. The American Civil Liberties Union writes that this bill makes California's contraceptive equity laws gender neutral. California Academy of Family Physicians writes that they fully support their patients' ability to access affordable contraception and birth control.

ARGUMENTS IN OPPOSITION: America's Health Insurance Plans, the Association of California Life and Health Insurance Companies, and the California Association of Health Plans, writing in opposition to a number of mandate bills, state that 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. The COVID-19 pandemic has forced us all to re-evaluate our priorities this year, focusing on the critical issues necessary to address this pandemic. Now is not the time to inhibit competition with proscriptive mandates that reduce choice and increase costs. In the face of this continued uncertainty and efforts to fragment the market and promote less comprehensive coverage, California needs to protect the coverage gains we've 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. The California Catholic Conference requests amendments to existing law to expand the existing definition of religious employer. The Right to Life League writes that this bill expands the scope of the California Fair Employment and Housing Act ("FEHA"), adding new category of "reproductive health care decisionmaking" to the already long list of protected classes for purposes of housing and employment discrimination. These

recent modifications to the bill attempt to weaponize the FEHA to target pro-life entities for employment discrimination. The Right to Life League believes this bill violates the First Amendment right to freedom of religion, including employers' rights to require employees adhere to specific religious beliefs

ASSEMBLY FLOOR: 62-11, 8/29/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Daly, Davies, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, 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, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Megan Dahle, Flora, Fong, Gallagher, Lackey, Mathis, Patterson, Seyarto, Smith
NO VOTE RECORDED: Choi, Irwin, Kiley, Mayes, Nguyen, Voepel, Waldron

Prepared by: Teri Boughton / HEALTH / (916) 651-4111
8/30/22 23:16:30

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

Office of Senate Floor Analyses
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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

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8/24/22 19:40:32

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

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UNFINISHED BUSINESS

Bill No: SB 717
Author: Dodd (D), et al.
Amended: 8/22/22
Vote: 21

SENATE HEALTH COMMITTEE: 11-0, 4/7/21
AYES: Pan, Melendez, Eggman, Gonzalez, Grove, Hurtado, Leyva, Limón, Roth, Rubio, Wiener

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

SENATE FLOOR: 32-0, 1/6/22
AYES: Archuleta, Atkins, Bates, Borgeas, Bradford, Cortese, Dahle, Dodd, Durazo, Eggman, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Allen, Becker, Caballero, Glazer, Kamlager, Laird, Umberg, Wilk

SENATE ENERGY, U. & C. COMMITTEE: 10-0, 8/30/22 (Pursuant to Senate Rule 29.10)
AYES: Hueso, Dahle, Becker, Bradford, Dodd, Eggman, Gonzalez, Min, Rubio, Stern
NO VOTE RECORDED: Borgeas, Grove, Hertzberg, McGuire

ASSEMBLY FLOOR: 78-0, 8/29/22 - See last page for vote

SUBJECT: Department of Technology: broadband communications: report

SOURCE: Author

DIGEST: This bill requires the California Department of Technology (CDT) to submit a report to the Legislature by May 1, 2024, regarding specified barriers to broadband infrastructure deployment.

Assembly Amendments delete the prior contents of the bill and instead add language requiring CDT to submit a report regarding barriers to broadband deployment.

ANALYSIS:

Existing law:

1) Establishes CDT as the state agency responsible for creating and enforcing state information technology strategic plans, policies, and standards. (Government Code §11545)

2) Establishes the Office of Broadband and Digital Literacy in CDT to oversee the construction of a state-owned, open access middle mile broadband network. (Government Code §11549.51)

3) Requires the Governor's Office of Business and Economic Development (GO-Biz) to coordinate with state and local agencies and national organizations to identify ways to streamline local land use approvals and construction permit processes for projects related to broadband infrastructure deployment and connectivity. (Government Code §12096.3.5)

This bill:

1) Defines wireless and wireline "broadband access points" as the telecommunications facilities, buildings, property, towers, poles, structures, and base stations upon which these facilities are installed.

2) Requires CDT to submit by May 1, 2024, a report on barriers to broadband infrastructure deployment to the Senate Energy, Utilities and Communications Committee and the Assembly Communications and Conveyance Committee.

3) Specifies that this report must identify barriers to constructing broadband access points on private and government-owned property, private and public lands and buildings, and public rights of way. The report must also identify barriers to providing low-income, tribal, urban, rural and underserved communities with mobile and fixed broadband access.

4) Specifies that the report must consider the extent to which the following poses a barrier to the deployment of broadband access points:
   a) Provision and cost of electric service to broadband infrastructure.
   b) Obtaining state or local permits to deploy infrastructure.
   c) Regulatory and legal obstacles to deploying fiber optic lines.
   d) Costs for leasing property to deploy broadband access points.
   e) Cost of leasing access to middle-mile infrastructure.
   f) California Coastal Commission permitting rules.
   g) Permitting rules for deploying infrastructure on port authority property.
   h) Local air quality management permitting requirements
   i) Noise abatement rules.
   j) Income of local communities and economic feasibility to recovering costs for providing internet service in those communities.

5) Specifies that CDT must coordinate input from the following stakeholder groups for the report:
   a) Law enforcement, public safety, and first responders
   b) Wireless and wireline telecommunications service providers
   c) Tribes and local governments
   d) Utilities
   e) Organized labor
   f) In-state manufacturing and technology associations
   g) Ratepayer advocates

Background

Lack of broadband access is driven by multiple factors. Multiple factors impact the extent to which communities lack broadband access; however, the absence of broadband infrastructure and the affordability of service plans remain significant challenges to ensuring that Californians have broadband access and can adopt services. To address the lack of sufficient broadband infrastructure, the Legislature passed a package of bills in 2021 that provide a combined $6 billion for building new broadband networks. This $6 billion includes funding to help local governments develop plans and develop infrastructure grant proposals, $2 billion in last mile infrastructure, and over $3 billion allocated for the creation of a state-owned, open access middle mile broadband network administered by CDT. However, even in areas where sufficient infrastructure exists, costs for internet service plans can put internet service, particularly fixed broadband service, out of reach for lower income households.

Permitting obstacles may exist, but the key barriers remain elusive. This bill requires CDT to submit a report to the Legislature on barriers to broadband infrastructure deployment, including certain permitting restrictions, legal hurdles, and costs. This bill is one of several recent measures aimed at addressing the extent to which permitting restrictions pose a barrier to deploying broadband infrastructure. While multiple measures have sought to address specific permitting delays and obstacles, it is unclear which permitting requirements remain the greatest hurdles for deploying broadband infrastructure.

Who's on first: which agency is responsible for coordinating broadband permitting recommendations? In August 2020, the governor issued Executive Order N-73-20 to direct state agencies to take steps to expand broadband access. The order directed the California Broadband Council to create a new Broadband Action Plan for the state. The Executive Order specified that the plan must include, "…a roadmap to accelerate the deployment and adoption of broadband by state agencies and to support such deployment and adoption by local governments." The Broadband Action Plan developed pursuant to EO N-73-20 acknowledged that permitting challenges existed on an anecdotal basis; however, the plan noted that more analysis was needed to identify specific barriers and appropriate policy changes. The plan recommended that CDT lead the following activities:

- Explore ways to improve government permitting processes
- Convene semi-annual meetings with broadband providers and local governments to address local government needs and permitting barriers.
- Establish a state-federal partnership to prioritize permits for broadband construction on federal lands.

Following the issuance of the Broadband Action Plan, the Legislature passed SB 4 (Gonzalez, Chapter 671, Statutes of 2021) and AB 14 (Aguiar-Curry, Chapter 658, Statutes of 2021) to extend and update the California Advanced Services Fund (CASF), California's primary long-term program funding broadband infrastructure and adoption projects. In addition to updating the CASF, SB 4 also required GO-Biz to coordinate with public agencies and other stakeholders to explore ways to streamline local land use approvals and permits for broadband infrastructure deployment. This bill may align with the Broadband Action Plan's recommendations for CDT to lead efforts to convene stakeholders and better identify permitting barriers and potential solutions. However, this bill may also establish statutory conflicts between duties assigned to GO-Biz in existing law and similar duties assigned to CDT under this bill.

Bill is one of several expanding the role of CDT over broadband planning. Under existing law, CDT is the primary state agency responsible for state information technology procurement and related policies; however, recent legislation has expanded CDT's duties to include more broadband policy and planning duties. SB 156 (Committee on Budget and Fiscal Review, Chapter 112, Statutes of 2021) established the Office of Broadband and Digital Literacy and required CDT to oversee the construction of the state-owned middle mile broadband network. In addition to overseeing the middle mile, AB 2750 (Mia Bonta, 2022) also requires CDT to develop a state digital equity plan, which must address barriers to fixed and wireless broadband infrastructure. This bill further expands the broadband planning role that CDT must exercise. However, CDT is not a regulator of telecommunications services and may largely rely on the California Public Utilities Commission (CPUC) for data on broadband services and expertise on utility rights of way policies.

Related/Prior Legislation

AB 2750 (Mia Bonta, 2022) requires CDT to develop a specified state digital equity plan. The bill specifies that the plan must address barriers to broadband adoption, including, but not limited to, access to fixed and wireless broadband infrastructure. The bill is currently in Engrossing and Enrolling.

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. In addition to these changes, SB 4 also required GO-Biz to coordinate with public agencies and other stakeholders to explore ways to streamline local land use approvals and permits for broadband infrastructure deployment.

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 established the Office of Broadband and Digital Literacy within CDT and required the office to oversee the construction of a state-owned, open-access middle mile broadband network. The bill allocated $3.25 billion for the creation this middle mile network, and it allocated a further $2 billion of federal funds to the CPUC to fund last mile broadband infrastructure.

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

According to the Assembly Appropriations Committee:

- CDT estimates needing approximately $1.5 million, one time, (Technology Services Revolving Fund) to cover staff and consulting and professional services.

- Based on its experience working on the "2020 Broadband For All Action Plan," the California Public Utilities Commission (CPUC) anticipates needed two limited-term positions for two years, at a cost of $342,000 each year, to coordinate with CDT and other agencies to develop the report, including collecting and providing information on topics in which CPUC has expertise.

- Additional costs over a two-year period of an unknown, but potentially significant amount, to the Department of Forestry and Fire Protection (Calfire), Office of Emergency Services (OES) and the California Coastal Commission to provide information to CDT.

SUPPORT: (Verified 8/30/22)

Pasadena Chamber of Commerce
T-Mobile
Verizon

OPPOSITION: (Verified 8/30/22)

City and County of San Francisco

ARGUMENTS IN SUPPORT: According to the Author:

> More than ever, Californians increasingly depend on broadband for distance learning, telehealth, public safety, remote work and accessing vital government services. Californians who cannot benefit from the digital age are at an inherent disadvantage, creating disparities in education, health care and the workforce.
>
> As more Americans use more broadband internet services, demand for new technologies, coverage, and capacity will necessarily increase. Therefore, it is critical that the deployment of wireline and wireless infrastructure is not stymied by unreasonable barriers that can intensify the digital divide by inhibiting investment and deployment of broadband access points. High-

speed broadband internet access services will transform the California economy through increased use of high-bandwidth and low-latency applications and through the growth of the Internet of Things. Broadband networks increasingly have required the deployment of more broadband access points to support expansion of coverage and increased usage and capacity. This trend will increase with next-generation networks, as demand continues to grow, and providers deploy broadband in local communities across the state.

There is an urgent need to accelerate the deployment of broadband access points to meet current demand and future growth. California must act to reduce barriers to the deployment of broadband infrastructure to maintain its leadership in advanced wireline and wireless broadband services and technology and to help address the digital divide.

ARGUMENTS IN OPPOSITION: Opponents argue that the study required by this bill will misrepresent the barriers to broadband access. The City and County of San Francisco is opposed to this bill unless it amended to require the study to examine the extent to which broadband companies' projected revenues for serving a given area limit these companies' incentives to deploy service to the area.
In opposition, the City and County of San Francisco state:

> "The City and County of San Francisco is concerned that the study as proposed is too narrowly focused on regulatory barriers to broadband deployment and presumes that local permitting costs and approval timeframes inhibit investment in rural and disadvantaged communities. Due to this assumption, the results of the study will not reflect the impacts of nonregulatory barriers on broadband deployment, including carriers' business decisions."

ASSEMBLY FLOOR: 78-0, 8/29/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, 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, 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: Irwin, Voepel

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8/30/22 23:18:39

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

SENATE RULES COMMITTEE SB 894
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UNFINISHED BUSINESS

Bill No: SB 894
Author: Jones (R), et al.
Amended: 8/24/22
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 NATURAL RES. & WATER COMMITTEE: 8-0, 4/19/22
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: 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: Not available

SUBJECT: Off-highway vehicles

SOURCE: Author

DIGEST: This bill establishes a process for registering and identifying certain Off-Highway Vehicles which do not comply with air emission regulations.

Assembly Amendments delay the effective date of these provisions until January 1, 2027.

ANALYSIS: Existing federal law allows the use of off-highway vehicles (OHVs) which are not compliant with emission regulations if they are used solely for competition.

Existing state law:

1) Requires motor vehicles that are unregistered because they are used exclusively off-road to be issued and display an identification plate obtained from the Department of Motor Vehicles (DMV), with certain exceptions, including certain OHVs used in competitive events upon closed courses.

2) Requires DMV, upon identifying an OHV subject to identification, to issue to the owner a suitable identification plate that is capable of being attached to the vehicle, as specified. Further specifies a violation of the Vehicle Code is punishable as an infraction.

3) Requires all OHV identification plates to be displayed in a specified manner, including on the left fork leg of a motorcycle, either horizontal or vertical, and visible from the left side of the motorcycle.

4) Imposes, generally, specified fees on off-highway motor vehicles, including, among others, a service fee of $7 for the issuance or renewal of identification for off-highway motor vehicles and a special fee of $33 paid concurrently with the service fee. The current total fees for OHV registration are $52.

5) Requires certain fees associated with OHVs to be deposited in the OHV Trust Fund, and requires moneys in the fund to be allocated for specified purposes related to off-highway recreation. Requires other fees to be deposited in the Motor Vehicle Account and allocated for CHP enforcement.

6) Requires all OHVs to meet specified requirements, including, but not limited to, a requirement that the vehicle be equipped with a spark arrestor maintained in effective working order. Certain OHVs being operated in an organized racing or competitive event upon a closed course are exempt from these requirements.

California Air Resources Board (CARB) regulations

7) Establishes a green sticker program whereby OHVs which meet air emissions standards can operate year round.

8) Establishes a red sticker program whereby OHVs which do not meet air emissions standards can only operate during riding season as determined by

CARB. By the 2022 model year, new OHVs must either meet air emissions standards or may only be used in competitive, sanctioned events; no new red stickers will be issued. Beginning in 2025, pre-2022 model year red sticker OHVs may operate year round, rather than be limited to the riding season.

This bill:

1) Establishes a program, beginning January 1, 2027, for registration of model year 2022 and newer OHVs used solely for competition off public highways. The program includes specified registration fees, most of which will be deposited in the Off-Highway Vehicle Trust Fund and used exclusively for the costs of the Department of Parks and Recreation related to OHV activities.

2) Provides that competition OHVs shall have a muffler and spark arrestor when operating on public lands.

Comments

1) *Author's Statement*. This bill will create an OHV Competition Sticker registration program for models 2022 and newer to replace the terminated Red Sticker registration, restoring the registration requirement for all OHVs when operated on public lands. Unlike the Red Sticker program which allowed competition OHVs to ride freely on public lands during certain times of the year, the Competition Sticker program will further restrict these vehicles' use to closed courses only in accordance with the federal Clean Air Act. SB 894 will ensure revenue streams continue for critical environmental work, as well as continuing all the advantages of identification that come with the program—including allowing law enforcement to trace these types of vehicles for public safety purposes. The economic impacts of OHV competitions are significant to rural communities, and this bill will help communities with their economic recovery during these challenging times.

2) *Red sticker program.* As a means to address air quality and greenhouse gas compliance issues, CARB established regulations to limit the use of OHVs that do not meet emission standards applicable for California OHV riding areas. Upon establishment of the regulations, CARB and DMV worked together to develop criteria for identifying these non-compliant OHVs. Currently, OHVs are registered by DMV and are issued a red or green sticker:

   Green stickers are issued for all California OHVs year model 2002 and older, including those that were previously issued a red sticker, and to 2003 and newer

complying vehicles. OHVs with green stickers can be used year round at all California OHV riding areas.

Red stickers are issued to 2003-2021 model year OHVs that are not certified to California OHV emission standards. OHVs with red stickers can use California OHV riding areas only for seasonal use as determined by each OHV recreational park. CARB notes that it first adopted OHV exhaust standards in 1994, in part to reduce emissions from high emitting two-stroke OHVs. In 1998, after extensive collaboration with stakeholders, the red sticker program was created.

For red sticker OHVs, permission to operate is based on a seasonal calendar that varies for the nine state OHV recreational parks and many sections of federal parklands. While some parks allow red sticker OHVs to operate year round, others enforce strict periods of operation. During peak ozone season, the red sticker limits operation at certain off-highway recreational vehicle parks located in non-attainment areas.

3) *Red Sticker Sunset.* In July 2013, CARB began conducting an assessment of the red sticker program. CARB subsequently worked closely with industry stakeholders and other state agencies to develop regulatory amendments in 2019 to end the Red Sticker Program in 2021. CARB notes in its information digest pertaining to the 2019 amendments, "The red sticker program was envisioned as a temporary measure to provide stability in the market while manufacturers developed a full range of OHRV that complied with California's emissions standards. This temporary measure has now been in effect for more than twenty years, and the majority of off-highway motorcycles (OHMC) sold in California are red sticker vehicles with no emissions controls."

4) *End of an Era*. According to the author, the expiration of CARB's red sticker program has created confusion about which OHVs can be registered and reduced revenue for OHV programs. This bill is intended to clarify the rules by creating a new OHV competition sticker program with specified fees. Beginning in 2027 those fees are a $9 fee payable to the DMV for the issuance or renewal of specified vehicle identification and a fee of $42 for the Off Highway Vehicle Trust Fund.

5) *Delayed Implementation.* The effective date of this bill has been delayed until January 1, 2027, to allow for the DMV to complete the upgrades to its information technology system. Many bills impacting the DMV have been similarly delayed.

6) *Looks Familiar*. This bill is similar to SB 227 (Jones) from last year, which passed the Senate and ultimately was held on the Assembly Appropriations Suspense file. The final version of SB 227, which is substantially the same as this bill, was amended to remove the opposition of the environmental groups who opposed the bill in the Senate policy committees.

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

According to the Assembly Appropriations Committee:

1) One-time substantial costs to DMV to modify its vehicle registration programming (Motor Vehicle Account (MVA)). DMV reports it is undertaking a complete modernization of its information technology (IT) systems, which will require DMV to place its "core legacy" IT system in "freeze mode." This means DMV would need to build a temporary solution outside of its core legacy system to allow for the registration of competition OHVs, which DMV warns would cost "from the low to multiple millions of dollars."

   In any case, the bill directs DMV's reasonable costs to implement this bill to be reimbursed from the OHVTF, upon appropriation by the Legislature. This means DMV's costs to modify its vehicle registration programming—whatever those costs turn out to be—will eventually be covered from funds dedicated to the benefit of OHVs. According to budget documents on the Department of Finance website, the OHVTF has a rapidly diminishing balance, starting at over $61 million in fiscal year 2020-21 and projected to drop to just under $15 million in fiscal year 2022-23. Parks, which administers the OHVTF, indicates those numbers are outdated. While Parks could not provide more up-to-date numbers at the time this analysis was prepared, Parks notes the OHVTF suffers from a structural imbalance and, as a result, the fund cannot support DMV's costs to implement SB 894.

   It is unknown how many Californians will register competition OHVs with DMV each year. The DMV, based on information provided by Parks and by the Air Resources Board (ARB), anticipates registering 2,000 vehicles per year. Assuming, for illustration purposes, 2,000 competition OHV registrations annually, and assuming the low end of DMV's cost estimate ($1 million), it will take almost 12 years for competition OHV fees to make the state whole. That is:

DMV start-up cost / (special fee) X (competition OHV registrants per year) = number of years to recoup DMV startup costs

or

$1,000,000 / ($42) X (2,000) = 11.9 years

The author contends DMV's cost estimate is high—and it may be—and that there will be an initial surge of competition OHV registrations. Even so, it is realistic to assume it will be at least about a decade before the state recoups from fee payers DMV's costs to implement this bill. The author may be able to reduce DMV's implementation costs by delaying the effective date of this bill by several years.

2) Ongoing costs of an unknown, but likely substantial amount, to DMV to register competition OHVs (MVA). DMV costs should be covered by the $9 service fee paid by each competition OHV registrant.

3) Ongoing revenue of an unknown, but likely substantial amount, to Parks resulting from payment of the $42 special fee by competition OHV registrants, to be used for costs to Parks related to the activities of competition OHVs on public lands (OHVTF). Again assuming 2,000 annual registrants projected by DMV, annual revenue would be $84,000.

SUPPORT: (Verified 8/29/22)

American Motorcyclist Association
California Motorcycle Dealers Association
California Wilderness Coalition
Defenders of Wildlife
District 36 Motorcycle Sports Committee, Inc. (AMA D36)
Motion Pro, Inc.
Motorcycle Industry Council
Off Road Vehicle Legislative Coalition
Sacramento Pacific International Trials Society
Tuleyome
Yuba County

OPPOSITION: (Verified 8/29/22)

None received

Prepared by: Randy Chinn / TRANS. / (916) 651-4121
8/30/22 23:16:34

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

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UNFINISHED BUSINESS

Bill No: SB 910
Author: Hurtado (D), et al.
Amended: 8/22/22
Vote: 27 - Urgency

PRIOR VOTES NOT RELEVANT

ASSEMBLY FLOOR: Not available

SUBJECT: Tribal gaming: compact ratification

SOURCE: Author

DIGEST: This bill ratifies the tribal-state gaming compact between the State of California and the Tejon Indian Tribe (hereafter "Tribe"), executed on August 17, 2022

Assembly Amendments delete the contents of the bill and instead ratifies the tribal-state gaming compact between the State of California and the Tejon Indian Tribe, executed on August 17, 2022.

ANALYSIS:

Existing law:

1) Provides, under the Indian Gaming Regulatory Act (IGRA), for the negotiation and conclusion of compacts between federally recognized Indian tribes and the State for the purpose of conducting Class III gaming activities on Indian lands within a State as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments.

2) Authorizes expressly a number of tribal-state gaming compacts between the State of California and specified Indian tribes.

3) Authorizes the conduct of Class III gaming activities to the extent such activities are permitted by state law, a gaming compact has been concluded by a

federally recognized tribe and the State, and the compact has been approved by the Secretary of the Interior.

4) Limits the operation of Class III gaming activities to Indian lands acquired on or before October 17, 1988. Provides, for certain exceptions to conduct gaming activities on Indian lands acquired after October 17, 1988.

5) Defines "Indian lands" to mean all lands within the limits of any Indian reservation, and any lands title to which is either held in trust by the United States for the benefit of any Indian tribe, or individual, or held by any Indian tribe or individual subject to restriction by the U.S. against alienation and over which an Indian tribe exercises governmental power.

6) Requires the State to negotiate to conclude a compact in good faith with an Indian tribe having jurisdiction over the Indian lands upon which the Class III gaming activity is to be conducted. Provides the U.S. district courts with jurisdiction over any cause of action initiated by a tribal government alleging that the State failed to negotiate in good faith to conclude a compact. Prescribes the remedy, mediation supervised by the courts, if it is found that the State failed to negotiate in good faith to conclude a compact.

7) Authorizes the Governor, under the California Constitution, to negotiate and conclude compacts, subject to ratification by the Legislature.

This bill:

1) Ratifies the tribal-state gaming compact between the State of California and the Tribe , executed on August 17, 2022.

2) Provides that, in deference to tribal sovereignty, certain actions are not deemed projects for purposes of the California Environmental Quality Act (CEQA); and, stipulate, except as expressly provided, that none of the provisions shall be construed to exempt a city, county, or city and county, or the Department of Transportation, or any state agency or local jurisdiction, from CEQA requirements.

3) Contains an Urgency Clause.

Background

Tejon Indian Compact. Under the Compact terms, the Tribe can operate up to 3,000 slot machines at a maximum of two facilities, one of which is limited to no

more than 50 devices. The Tribe will reimburse the State of California for its regulatory costs on a pro rata basis by payments into the Special Distribution Fund (SDF). After the first seven years of operation, the Tribe will contribute to the Revenue Sharing Trust Fund (RSTF) or Tribal Nation Grant Fund (TNGF) 6% of its Net Win over 350 and up to 2,250 slot machines and 7% Net Win over 2,250 devices. The Tribe is able to apply up to 65% credits against its RSTF contributions (60% when operating over 2,250 slot machines) for payments in support of local governments and non-profits and various costs and investments that benefit the local community and others.

The Compact includes a Tribal Labor Relations Ordinance (TLRO), which provides that gaming may commence only after the Tribe has adopted a TLRO that allows for a secret ballot election and union neutrality.

The Compact's preamble notes that the Tribe and the State share an interest in mitigating the off-reservation impacts of the gaming facility, affording meaningful consumer and employee protections in connection with the operation of the Tribe's gaming facility, fairly regulating the gaming activities conducted at the gaming facility, and fostering a good-neighbor relationship.

The Governor's office states that the Tribe estimates its proposed gaming facility, which will be located in Kern County approximately four miles from the Tribe's government center, will directly create over 1,000 construction and 2,000 permanent high-wage jobs, drawing heavily from the local workforce. The project has the support of Kern County, business, labor, and community groups, and various law enforcement and public representatives. The Tribe committed through an agreement with Kern County to mitigate the impacts of the proposed gaming facility on public services and the surrounding environment.
Once effective (legislative ratification and federal approval required), this Compact will be in full force and effect for 25 years following the effective date.

Tejon Indian Tribe. The Tejon Indian Tribe is a federally recognized Indian tribe of Kitanemuk Indians located in Kern County, California, whose members also trace ancestry to the Hometwoli natives of the County. The Tribe is the only federally recognized Tribe in the County.

The ancestors of the Tribe's current members have lived in the area now known as southern Kern County since time immemorial. Its membership, which can be traced to a 1915 census taken for the United States (U.S.) government, continues to grow with over 1,200 enrolled members, nearly a third of whom are under 18 years

old. Over 60 percent of the Tribe's members are residents of Kern County, and many are lifelong residents of Bakersfield. Tribal members, past and present, have seen many changes to their traditional lives and lands over the years. The Tribe and its members have critical unmet societal and economic needs. One-third of tribal households receive support from the Supplemental Nutrition Assistance Program for needy families.

The Tribe's ancestors were signatory to an unratified 1851 treaty with the United States, in which a reservation for the Tribe in Kern County would have been created had the treaty been ratified. Even though the United States government continuously exercised active guardianship over the Tribe from 1851 until the 1950s, the federal relationship was then administratively evident by the Bureau of Indian Affairs because no formal reservation had been created for the Tribe. On December 30, 2011, Assistant Secretary - Indian Affairs Larry Echo Hawk acknowledged this administrative error and reaffirmed the Tribe's government-to-government relationship with the United States government. The Tribe has since appeared on every list of acknowledged Indian tribes that is published by the U.S. Bureau of Indian Affairs each year.

In 2020, the U.S. Department of the Interior placed a ten-acre parcel of land in Kern County into trust for the Tribe. This small parcel in Bakersfield, California, serves as the Tribe's Government Center. Because of the interruption of the active federal relationship with the Tribe and the consequent failure to deliver federal Indian services to its members, the Tribe now provides only limited health care, housing, and environmental services to its members. In 2021, the U.S. Department of the Interior issued a Secretarial Determination, also known as a Two-Part Determination that gaming on a 300+ acre parcel (Mettler Site) in unincorporated Kern County, less than four miles from the Tribe's tribal center on its ten-acre trust parcel, south of the City of Bakersfield would be in the best interest of the Tribe and its members and would not be detrimental to the surrounding community. Besides a gaming facility, the land parcel could be used for other tribal purposes, including administrative offices, a health facility, housing, and supporting infrastructure. Like the Government Center, the Mettler parcel is located within the area that would have been the Tribe's reservation under the 1851 treaty.

The Tribe and its members have critical unmet needs, including employment, education, health care, housing, and professionals for tribal services. To address these needs, the Tribe proposes to develop a gaming resort, hotel, and supporting facilities on a portion (52 acres) of the approximately 320-acre property. A $600 million casino resort and hotel is being proposed by the Tribe. The Tribe and Hard Rock International, owned by the Seminole Tribe of Florida, have a partnership

agreement to build a hotel and casino resort with a 166,500 square feet gaming space and an 11-story hotel with 400 rooms.

The project would also include a spa and fitness center, food and beverage facilities, a concert venue, and "the largest conference and meeting space in the County. Adjacent acreage will be designated for an RV park, fire and sheriff stations, and associated facilities such as water treatment and disposal facilities. According to the Tribe, the casino resort will increase tourism, create jobs, increase investment and purchasing in the local economy, provide resources and services for tribal members, build privately funded infrastructure improvements at no cost to taxpayers, and add new entertainment amenities. The project is supported by local public and law enforcement representatives, labor unions, and a diverse array of community and business groups.

The Tribe has entered into an intergovernmental agreement effective July 23, 2019, with Kern County to mitigate impacts of the proposed project on public services and the environment. The Compact's preamble notes the Compact will enable the Tribe, through revenues generated by its gaming operation, to improve the governance, environment, education, health, safety, and general welfare of its members, and to promote a strong tribal government and self-sufficiency and to provide essential government services to its members.

Governor Newsom Concurs. The Indian Gaming Regulatory Act (IGRA) generally limits a tribe to gaming on land that was held in trust for the tribe by the U.S. Department of the Interior (Interior) prior to October 17, 1998 or that is within or contiguous to the tribe's reservation as of that date. However, a tribe can game on newly acquired lands if the Governor of the state concurs in a determination by the Secretary of the Interior that 1) a gaming establishment on those lands would be in the best interest of the tribe and its members and 2) would not be detrimental to the surrounding community. This is referred to as a secretarial or a two-part determination. In addition, IGRA requires a tribe to enter into a tribal-state gaming compact before it can conduct Class III gaming on its lands.

On December 30, 2011, the federally recognized status of the Tejon Indian Tribe was reaffirmed by Interior. Subsequently, the Tribe applied to Interior to have a 320-acre parcel taken into trust for the purpose of gaming. The parcel, known as the Mettler Site, is located in Kern County off of Highway 99 south of Bakersfield and north of the grapevine. On January 4, 2021, Interior informed the Governor of its determination that gaming on the Mettler Site would be in the best interest of the Tribe and its members and would not be detrimental to the surrounding

community. Governor Newsom concurred in Interior's determination on June 13, 2022 and signed this compact on August 17, 2022. Once Interior takes the Mettler Site into trust for the Tribe, the Tribe will be able to conduct gaming at that location in conformance with its Compact. This is subject to ratification by the legislature and federal government approval, as specified.

Indian Gaming Regulatory Act. In 1988, Congress enacted IGRA to provide a statutory basis for the operation and regulation of gaming on Indian lands. IGRA provides that an Indian tribe may conduct gaming activity on Indian lands if the activity "is not specifically prohibited by federal law and is conducted within a State which does not prohibit such gaming activity."

IGRA distinguishes between three classes of gaming (Class I, Class II, and Class III) and provides for different forms of regulation for each class. Class I gaming includes "social games" for minor prizes or "traditional forms of Indian gaming." Class II gaming is defined to include bingo and card games that are explicitly authorized by the laws of the state, or that are not explicitly prohibited by the laws of the state and are played at any location in the State, so long as the card games are played in conformity with those laws and regulations. Class III gaming includes such things as slot machines, casino games, and banked card games such as black jack and baccarat. Class III gaming may only be conducted under terms of a compact negotiated between an Indian tribe and a State.

IGRA was enacted against a legal background in which Indian tribes and individuals generally are exempt from state taxation within their own territory. IGRA provides that with the exception of assessments permitted under the statute, to defray the State's costs of regulating gaming activity, IGRA shall not be interpreted as conferring upon a State authority to impose any tax, fee, charge, or other assessment upon an Indian tribe to engage in Class III activity. Nor may a State refuse to enter into negotiations based on the lack of authority to impose such a tax, fee, charge, or other assessment.

When a tribe requests negotiations for a Class III compact, IGRA requires the State to negotiate with the Indian tribe in good faith. IGRA provides a comprehensive process to prevent an impasse in compact negotiations, which is triggered when a tribe files suit alleging that the State has refused to negotiate or has failed to negotiate in good faith.

Before 2000, the California Constitution prohibited Class III gaming. In 2000, California voters approved Proposition 1A, which had been proposed by the Governor and passed by the Legislature. Proposition 1A amended the California

Constitution to permit the State to negotiate compacts with federally recognized Indian tribes for certain Class III gaming activities. Because non-Indian parties were still forbidden from operating gaming facilities, Proposition 1A granted Indian tribes a "constitutionally protected monopoly on most types of Class III games in California."

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

SUPPORT: (Verified 8/23/22)

Bakersfield Association of Realtors
Bakersfield Chamber of Commerce
Building Traces Council – Kern, Inyo, & Mono Counties of California AFL-CIO
Chamber of Commerce in Kern County
Taft District Chamber of Commerce in Kern County
Kern Economic Development Corporation
Kern County Black Chamber of Commerce
Kern County Hispanic Chamber of Commerce
Kern County Taxpayers Association
State Building & Construction Trades Council
Tejon Indian Tribe

OPPOSITION: (Verified 8/23/22)

None received

ARGUMENTS IN SUPPORT: According to the Tejon Indian Tribe, "the Tejon Tribe's project will provide a much-needed boost to the local economy, especially as so many communities across the central valley continue to grapple with the devastating impact of the COVID-19 pandemic. The opportunity for jobs and local growth has never been more urgently needed in Kern County.

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
8/30/22 23:16:31

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

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UNFINISHED BUSINESS

Bill No: SB 987
Author: Portantino (D), et al.
Amended: 8/25/22
Vote: 21

SENATE HEALTH COMMITTEE: 8-0, 4/20/22
AYES: Pan, Eggman, Gonzalez, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Melendez, Grove, Hurtado

SENATE APPROPRIATIONS COMMITTEE: 6-1, 5/19/22
AYES: Portantino, Bates, Bradford, Kamlager, Laird, Wieckowski
NOES: Jones

SENATE FLOOR: 34-0, 5/24/22
AYES: Allen, Atkins, Bates, Becker, Borgeas, Bradford, Cortese, 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, Caballero, Dahle, Hertzberg, Jones, Melendez

ASSEMBLY FLOOR: 78-0, 8/29/22 - See last page for vote

SUBJECT: California Cancer Care Equity Act

SOURCE: American Cancer Society Cancer Action Network
City of Hope

DIGEST: This bill requires a Medi-Cal managed care plan (MCMCP) to make a good faith effort to include in its contracted provider network at least one National Cancer Institute (NCI) Designated Comprehensive Cancer Center, NCI Community Oncology Research Program (NCORP) affiliated cite, or qualifying academic center in each county the MCMCP operates. It also requires MCMCPs

to notify all enrollees of their right to request a referral to access to care through any of those centers.

Assembly Amendments:

1) Remove the provision that allows enrollees to choose to receive services through an in-network NCI-Designated Cancer Center. Instead allows enrollees to request a referral to an NCI-Designated Comprehensive Cancer Center, NCORP-affiliated cite, or qualifying academic center.

2) Remove the requirement that MCMCPs inform enrollees within seven days of a complex cancer diagnosis of their right to receive care at an NCI-Designated Cancer Center, grievance and appeal procedures if denied, as well as their right to access transportation services. Remove the requirement for the Department of Health Care Services (DHCS) to develop a standard written notice and notice for verbally notifying enrollees of their right to receive care for a complex cancer diagnosis and an NCI-Designated Cancer Center.

3) Remove provisions related to payments between MCMCPs and NCI-Designated Cancer Centers as well as MCMCP contract rates from DHCS.

4) Remove the provision related to an advisory group to update the definition of "complex cancer diagnosis" and instead require DHCS to do so in consultation with stakeholders. Make technical changes to "complex cancer diagnosis".

5) Add NCORP-affiliated cite and qualifying academic center (effectively defined as Cedars-Sinai Medical Center) as places where Medi-Cal MCMCP enrollees may request a referral upon receipt of a complex cancer diagnosis.

6) Allow DHCS to contract to implement this bill exempt from the review or approval of the Department of General Services.

ANALYSIS:

Existing 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 the schedule of benefits for the Medi-Cal program, which includes, among other things, the coverage of physician, hospital, or clinic outpatient services, inpatient hospital services, and prescription drugs including any drug for cancer, opportunistic infections associated with cancer, or any drug or

biologic used in an anticancer chemotherapeutic regimen that is approved by the federal Food and Drug Administration where the manufacturer has a contract with the Health Care Financing Administration. [WIC §14132, 14133.2]

3) Authorizes the Director of DHCS to contract, on a bid or nonbid basis, with any qualified individual, organization, or entity to provide services to, arrange for, or case manage the care of Medi-Cal beneficiaries. [WIC §14087.3]

4) Requires MCMCPs to adhere to certain network adequacy standards that require MCMCPs to maintain a network of specialists, including oncologists that are located within a certain time or distance from their enrollees' places of residence. That time and distance is dependent on what county the enrollee lives in. [WIC §14197]

This bill:

1) Defines "complex cancer diagnosis" as a diagnosis for which there is no standard FDA-approved treatment or for which known highly effective therapy for metastatic cancer has failed and any of the following diagnoses: hematological malignancies, acute leukemia, advanced, relapsed, refractory non-Hodgkin lymphoma and multiple myeloma, including BPDCN and T-cell leukemias and lymphomas, and advanced stage, relapsed solid tumors refractory to standard FDA-approved treatment options, advanced stage rare solid tumors for which there is no known effective standard treatment options. Authorizes DHCS to review and update the definition on a periodic basis after consultation with stakeholders.

2) Requires MCMCPs to make a good faith effort to include in their contracted provider network at least one NCI-Designated Comprehensive Cancer Center, NCORP-affiliated site, or qualifying academic center in each county the MCMCP operates. Defines each of these terms as follows:

   a) "NCI-designated comprehensive cancer center" is a cancer center that meets ongoing standards for cancer prevention, clinical services, and research, as determined by regular reviews and evaluations by NCI.
   b) "National Cancer Institute (NCI) Community Oncology Research Program (NCORP) affiliated site" is a cancer center that has received an approved grant from NCI through NCORP that provides cancer clinical trials and care delivery studies.
   i) "Qualifying academic cancer center" is a research and clinical cancer center that meets all the following criteria: has a medical oncology or hematology

subspecialty expertise in each of the included complex cancers; has a portfolio of phases 1, 2, and 3 clinical trials available for eligible enrollees; provides fellowship programs n medical oncology, hematology or hematological oncology, radiation oncology, or a surgical oncology specialty; provides inpatient and outpatient supportive care services; covers clinical, anatomic, and molecular pathology with subspecialty expertise for each of the included complex cancers; provides a program accredited by the American College of Surgeons Commission on Cancer; and has accreditation for the main campus by the Foundation for the Accreditation of Cellular Therapy.

5) Allows MCMCP enrollees with a complex cancer diagnosis to request a referral to an in-network NCI-Designated Comprehensive Cancer Center, NCORP-affiliated site, or qualifying academic center. Should there be no in-network NCI-Designated Comprehensive Cancer Center, NCORP-affiliated site, or qualifying academic center, an MCMCP enrollee may request an out-of-network referral on the condition that the MCMCP and the provider can come to an agreement on payment.

6) Allows an MCMCP to deny a referral solely upon a determination by the treating provider that the request to receive services at an NCI–designated Comprehensive Cancer Center, NCORP-affiliated site, or a qualifying academic cancer center is not medically necessary, the requested services are not available at, or not applicable to, the enrollee's cancer diagnosis or the requested provider is out-of-network provider and the Medi-Cal managed care plan and the out-of-network provider are unable to come to agreement with the respect to payment.

7) Requires MCMCPs, upon approval of a request to receive services at an NCI-designated Comprehensive Cancer Center, NCORP-affiliated site, or qualifying academic cancer center, to ensure the services available to an eligible enrollee are sufficient in amount, duration, and scope as medically necessary for the treatment of the enrollee's condition and prohibits MCMCPs from arbitrarily denying or reducing the amount, duration, or scope of required services solely because of diagnosis, type of illness, or condition of the enrollee.

8) Requires DHCS to seek the federal approval necessary to implement this bill and conditions implementation on the receipt of any necessary federal approval and continued federal financial participation.

9) Authorizes DHCS to implement this bill via guidance without taking further regulatory action and to enter into contract to implement this bill without the need for review or approval by the Department of General Services.

Comments

1) *Author's statement.* According to the author, sadly, there are serious inequalities in access to care for cancer patients. The impact of these care disparities are greater for patients who are Medi-Cal beneficiaries, especially those who come from underserved communities. Health insurance doesn't guarantee access to experts specializing in complex cancer types, promising clinical trials, and advances in personalized, precision cancer treatments. With advances in cancer science and more effective treatments, it is critical that we ensure all cancer patients have access to new science and technology that can improve health outcomes for patients and their families. This bill provides a more equitable model of health care for cancer patients.

2) *Disparities in cancer treatment.* According to the American Cancer Society's most recent *Cancer Facts and Figures*, cancer death rates are higher among people with lower socioeconomic status compared to people with higher socioeconomic status, and this gap is widening. Additionally, racial and ethnic disparities in the cancer burden largely reflect long-standing inequities in socioeconomic status and access to high-quality health care, which can be attributed in large part to historical and persistent structural racism in the US experienced by all people of color. Even within socioeconomic groups, disparities by race and ethnicity persist as people of color are more likely to receive lower-quality health care than white people even when health insurance status, age, severity of disease, and health status are comparable. Social inequalities, such as language barriers and provider bias, can also affect interactions between patients and physicians and contribute to miscommunication and receipt of substandard care. For example, prostate cancer mortality among black men is more than double that of men in every other group; black women have 41% higher breast cancer death rates than white women despite similar incidence rates; and larger gaps in mortality compared to incidence reflect substantial disparities in survival for black individuals due to disproportionate poverty because of systemic racism that reduces access to equitable care.

   A 2016 study by UC Davis found that significant disparities in cancer survival and quality of care were found among persons having different sources of health insurance. The greatest number and largest disparities were found

among persons insured by Medi-Cal or having Medicare-Medi-Cal dual eligibility or having no insurance. Those with Medi-Cal had little advantage over the uninsured. Medi-Cal patients having breast, colon and rectal cancer were more likely to be diagnosed at an advanced stage of disease and to have less favorable five-year survival rates than persons having other sources of health insurance. Medicare-Medi-Cal dual eligible patients were the least likely to receive recommended treatment for breast and colon cancer. It should be noted, however, that the data relied upon was prior to the expansion of Medi-Cal in 2014 that allowed adults under age 65 with no dependent children and not disabled to enroll. Prior to 2014, many of these individuals would have been ineligible for Medi-Cal until they had a disabling condition, so this could impact late cancer diagnoses.

3) *Included cancer treatment centers.* The NCI Cancer Centers Program was created as part of the National Cancer Act of 1971. Through this program, NCI recognizes centers around the country that meet rigorous standards for transdisciplinary, state-of-the-art research focused on developing new and better approaches to preventing, diagnosing, and treating cancer. California has a large proportion of the nation's Cancer Centers with eight NCI-designated Comprehensive Cancer Centers. These Cancer Centers are located in six California counties primarily in the urban areas on the western side of the state: San Diego, Orange, Los Angeles, Santa Clara, San Francisco, and Sacramento. NCORP is a national network that brings cancer clinical trials and care delivery studies to people in their own communities. There are 63 NCORP-affiliated sites throughout California, over 40 of which are Kaiser Permanente sites. As defined in this bill, a qualifying academic cancer center effectively means Cedars-Sinai Medical Center in Los Angeles.

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

According to the Assembly Appropriations Committee, unknown but possibly significant ongoing costs (possibly hundreds of thousands to low millions of dollars, General Fund/federal fund) to DHCS for state operations workload to: (1) ensure any beneficiary diagnosed with a complex cancer diagnosis, as defined, is referred to an cancer center within 15 business days; (2) review existing MCMC plans and networks; (3) develop a standardized notice to enrollees on their right to access cancer treatment through cancer center; and, (4) convene the advisory committee of oncology experts and specified stakeholders. While cancer treatments are typically covered services under MCMC plans, to the extent an enrollee elects to get services at a cancer center, there may also be costs to DHCS

for updating Medi-Cal rates and reimbursements. Items 1, 3, and 4 have been amended out of the bill.

SUPPORT: (Verified 8/29/22)

American Cancer Society Cancer Action Network (co-source)
City of Hope (co-source)
Association of Regional Center Agencies
Be the Match
Biocom California
California Black Health Network
California Chronic Care Coalition
California Dialysis Council
California Hawaii State Conference of the NAACP
California Life Sciences
Cancer Care is Different Coalition
Cedars-Sinai
City of Hope National Medical Center
Latino Cancer Institute
Lazerax Cancer Foundation
Leukemia and Lymphoma Society
North Bay Cancer Alliance
San Gabriel Valley Economic Partnership
Susan G. Komen
Stanford Health Care
Triage Cancer
Western Center on Law and Poverty

OPPOSITION: (Verified 8/29/22)

None received

ARGUMENTS IN SUPPORT: The Cancer Care is Different Coalition including co-sponsors American Cancer Society Cancer Action Network and City of Hope writes that this bill ensures that Medi-Cal enrollees who receive a complex cancer diagnosis have the choice to seek treatment at a comprehensive cancer center, increasing the pool of Californians able to benefit from emerging therapies, clinical trials, and cancer doctors specializing in a particular type of cancer. Californians insured with Medi-Cal suffer much worse-than-average outcomes for several cancer diagnoses, including lung cancer and breast cancer. Patients receiving care from designated specialists saw a 53% reduction in the odds of early mortality, but

less than half of California cancer patients received care aligned with national guidelines between 2004 and 2016. They also state that the current one-size-fits-most system results in the wrong care and connects patients to care too late, shortening lives and ultimately increasing costs. For too long, too many patients, especially those historically underserved, have been denied the opportunity to equally benefit from the latest advancements in cancer care.

ASSEMBLY FLOOR: 78-0, 8/29/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, 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, 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, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Irwin, Seyarto

Prepared by: Jen Flory / HEALTH / (916) 651-4111
8/29/22 23:45:25

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

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UNFINISHED BUSINESS

Bill No: SB 1024
Author: Jones (R)
Amended: 8/29/22
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 5/3/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

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: 79-0, 8/30/22 - See last page for vote

SUBJECT: Replacement of an incapacitated or deceased professional fiduciary

SOURCE: Professional Fiduciary Association of California

DIGEST: This bill establishes an expedited court process that allows for the appointment of a professional fiduciary practice administrator to take over the responsibilities of an incapacitated or deceased professional fiduciary on a temporary basis.

Assembly Amendments delay the operation of the expedited court process until January 1, 2024, require the Judicial Council to create or revise any forms or rules necessary to implement the bill's provisions no later than January 1, 2024, authorize instead of require the court to appoint a professional fiduciary practice administrator to take over the responsibilities of an incapacitated or deceased professional fiduciary, require the term of the administrator to end 45 days after the entry of the order of appointment, enhance notice requirements, and authorize the

court to extend time periods if it determines it's in the best interest of interested parties. The amendments also define "professional fiduciary" under the Professional Fiduciaries Act to include a person acting as a professional fiduciary practice administrator, applies similar requirements under that Act to a professional fiduciary practice administrator, and add chaptering out amendments with SB 1495 (Committee on Business, Professions and Economic Development, 2022).

ANALYSIS:

Existing law:

1) Specifies procedures for the establishment and termination of a guardian or conservatorship over a person (Prob. Code § 1500 et. seq. & § 1800 et. seq., respectively.)

2) Specifies procedures for the administration of an estate of a decedent. (Prob. Code § 7000 et. seq.)

3) Authorizes the conservator of the estate of a disabled attorney who was engaged in the practice of law at the time of the attorney's disability, or other person interested in the estate, to bring a petition seeking the appointment of an active licensee of the State Bar of California to take control of the files and assets of the practice of the disabled attorney, as provided. (Prob. Code 2468.)

4) Authorizes the personal representative of the estate of a deceased attorney who was engaged in a practice of law at the time of the attorney's death, or other person interested in the estate, to bring a petition for appointment of an active licensee of the State Bar of California to take control of the files and assets of the practice of the deceased attorney, as provided. (Prob. Code § 7000 et. seq.)

5) Provides for the licensure and regulation of professional fiduciaries under the Professional Fiduciaries Act. (Bus. & Prof. Code § 6500 et. seq.)

This bill:

1) Authorizes, commencing January 1, 2024, a conservator, agent under power of attorney for asset management, trustee, or interested person to petition the court for the appointment of one or more qualified individuals to act as a professional fiduciary practice administrator to take control of the incapacitated professional fiduciary's files and to be appointed as temporary successor as to those matters for which a vacancy exists as a result of the professional fiduciary's incapacity when a professional fiduciary becomes incapacitated and a vacancy exists or when a professional fiduciary is deceased and a vacancy exists, as provided.

2) Requires the filed petition to request an order appointing a professional fiduciary practice administrator as temporary successor with all of the powers and duties held by the incapacitated or deceased fiduciary.

3) Requires all persons entitled to notice in each of the matters in which the incapacitated or deceased fiduciary was acting in a representative capacity to be provided notice of the incapacity or death and that a vacancy exists as a result, except as specified.

4) Requires the appointment of the professional fiduciary practice administrator as temporary successor to terminate, in each of the matters in which the professional fiduciary practice administrator was appointed as temporary successor, 45 days after the entry of the order appointing the professional fiduciary practice administrator, or earlier if another person is appointed.

5) Requires the appointed professional fiduciary practice administrator to do certain things, including:

   a) Taking control and reviewing all files maintained by the incapacitated or deceased fiduciary for matters in which they were acting in a representative capacity;

   b) Contact all interested parties as to each matter as specified;

   c) File a copy of the order appointing the professional fiduciary practice administrator as temporary successor in each of the matters in which the court appoints them as successor; and

   d) Comply with any other obligation imposed by the court.

6) Requires the professional fiduciary practice administrator to be compensated for services provided and reimbursement of costs incurred in each matter solely from the assets of that matter, subject to the provisions of the applicable document or as determined by the court, and in no event more than the incapacitated fiduciary would have been.

7) Defines “professional fiduciary” under the Professional Fiduciaries Act to include a person acting as a professional fiduciary practice administrator and applies similar requirements under that Act to a professional fiduciary practice administrator, as provided.

8) Defines various terms for these purposes:

a) "Incapacitated" means that the person is unable to fulfill their duties as a professional fiduciary because of either temporary or permanent disability, incapacity, or absence;

b) "Professional fiduciary practice administrator" means the person or persons appointed to take over the responsibilities from the incapacitated or deceased fiduciary; and

c) "Vacancy" means that the instrument under which the incapacitated or deceased fiduciary was acting does not name a successor to fill the vacancy, the instrument under which the incapacitated or deceased fiduciary was acting does not provide a nonjudicial method to fill the vacancy, and a cofiduciary, authorized to act solely, was not acting with the incapacitated or deceased fiduciary.

Comments

Existing law authorizes the conservator of the estate of a disabled attorney or the personal representative of a deceased attorney to petition the court seeking the appointment of an active licensee of the State Bar of California to take control of the files and assets of the practice of the disabled attorney or deceased attorney. There is no similar authority for the appointment of a temporary successor when a professional fiduciary becomes incapacitated or dies, thus creating multiple vacancies. This bill seeks to remedy that issue by providing similar authority for the appointment of a professional fiduciary practice administrator to take over the responsibilities of an incapacitated professional fiduciary or a deceased professional fiduciary. According to the sponsor of this bill, there have been several instances where professional fiduciaries have died unexpectedly with ongoing practices creating numerous vacancies, each of which required a separate expedited hearing to fill the vacancies. The sponsor notes that the numerous petitions and hearings are a strain on the court's time and the inability to get some of the vacancies filled can create hardships for those individuals who are dependent on their professional fiduciary to provide timely assistance, both personally and financially.

Specifically, this bill allows a conservator, agent under power of attorney for asset management, trustee, or interested person to petition the court for the appointment of one or more qualified individuals to act as a professional fiduciary practice administrator when a professional fiduciary becomes incapacitated or when a professional fiduciary is deceased and a vacancy exists. The person appointed as a professional fiduciary practice administrator is required to be qualified to act as a professional fiduciary under the Professional Fiduciaries Act. The professional

fiduciary practice administrator is intended to be appointed as a temporary successor with all of the powers and duties held by the incapacitated or deceased fiduciary. The appointment is required to terminate, in each of the matters in which the professional fiduciary practice administrator was appointed as temporary successor, 45 days after the entry of the order appointing the administrator, or earlier if another person is appointed. This bill specifies that its provisions are not intended to limit the existing authority of the court on its own motion to appoint a temporary guardian, conservator, or trustee, or make orders necessary to deal with an estate during the period between when a vacancy occurs in the office of personal representative and the appointment of a successor. (Prob. Code § 2250(j), 15642(e), & 8523, respectively.)

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

According to the Assembly Appropriations Committee, likely minor and absorbable costs to the Judicial Council to revise forms related to a petition for appointment of a temporary professional fiduciary or conservator.

SUPPORT: (Verified 8/23/22)

Professional Fiduciary Association of California (source)
California Judges Association

OPPOSITION: (Verified 8/23/22)

None received

ARGUMENTS IN SUPPORT: The Professional Fiduciary Association of California, sponsor of this bill, writes:

> The incapacity or death of an active professional fiduciary creates vacancies in the multiple matters in which the professional fiduciary had been acting in a representative capacity (guardian, conservator, personal representative or trustee). Absent the timely appointment of a temporary successor, there is great risk that there will not be anyone legally authorized to address essential actions and responsibilities to the detriment of those who are dependent on the services routinely provided by incapacitated or deceased professional fiduciary.
>
> A statutory process to address the practice of an incapacitated or deceased professional fiduciary does not currently exist. Under current law, where a vacancy is created by the incapacity or death of a professional fiduciary, in the office of guardian, conservator, administrator or trustee, in order for a

temporary successor to be appointed, separate petitions are required to be filed for each matter. This places a burden on the court, and others, to individually address a separate petition for each matter in which a professional fiduciary had been acting in a representative capacity. SB 1024 provides a streamlined statutory process by which a single petition can be filed to fill each of the vacancies, (vacancy is defined is a vacancy that cannot be filled by a non-judicial manner), on a temporary basis, created by the incapacity or death of a professional fiduciary. […]

ASSEMBLY FLOOR: 79-0, 8/30/22
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, 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: Irwin

Prepared by: Amanda Mattson / JUD. / (916) 651-4113
8/30/22 23:14:04

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

Office of Senate Floor Analyses
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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 ******

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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 ******

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UNFINISHED BUSINESS

Bill No: SB 1137
Author: Gonzalez (D) and Limón (D), et al.
Amended: 8/27/22
Vote: 21

PRIOR SENATE VOTES NOT RELEVANT

ASSEMBLY FLOOR: Not available

SUBJECT: Oil and gas: operations: location restrictions: notice of intention: health protection zone: sensitive receptors

SOURCE: Author

DIGEST: This bill establishes health protection zones that are 3,200 feet in all directions from a sensitive receptor; prohibits the Geologic Energy Management Division from approving the drilling of new oil or gas wells or the reworking of existing oil or gas wells within a health protection zone with certain exceptions, such as to plug-and-abandon a well; and establishes additional monitoring and other requirements for existing oil and gas operations in a health protection zone, among other things.

Assembly Amendments gut-and-amend the bill to its current form.

ANALYSIS:

Existing law:

1) Establishes the Geologic Energy Management Division (CalGEM) in the Department of Conservation. CalGEM regulates oil and gas production in the state, and CalGEM's leader is the State Oil and Gas Supervisor (supervisor).

2) Provides that the purposes of the state's oil and gas conservation laws include protecting public health and safety and environmental quality, including the reduction and mitigation of greenhouse gas emissions associated with the development of hydrocarbon and geothermal resources in a manner that meets the energy needs of the state. (Public Resources Code (PRC) §3011)

3) Directs the supervisor to so supervise the drilling, operation, maintenance, and abandonment of wells and the operation, maintenance, and removal or abandonment of tanks and facilities attendant to oil and gas production, as specified, so as to prevent, as far as possible, damage to life, health, property, and natural resources, as provided. (PRC §3106)

4) Requires the operator of a well to file a written notice of intention (NOI) to commence drilling, and prohibits any drilling until approval is given by, the supervisor or district deputy. (PRC §3203)

    a) Once issued, a NOI is valid for drilling or re-drilling work, as applicable, for two years and cannot be renewed. A NOI effectively authorizes the operation of the well once the well is completed.

This bill establishes health protection zones that are 3,200 feet in all directions from a sensitive receptor; prohibits CalGEM from approving the drilling of new oil or gas wells or the reworking of existing oil or gas wells within a health protection zone with certain exceptions, such as to plug-and-abandon a well; and establishes additional monitoring and other requirements for existing oil and gas operations in a health protection zone, among other things. Specifically, this bill:

1) Defines a health protection zone to be the area within 3,200 feet of a sensitive receptor, as provided. Sensitive receptors include a residence, an education resource, such as a school, a community resource center, a health care facility, a long-term care hospital, a prison, and any building housing a business open to the public, among others.

2) Prohibits CalGEM starting January 1, 2023, from approving a notice of intention to drill a new well or rework an existing well in a health protection zone, subject to the following exceptions:

    a) To prevent or respond to a threat to public health, safety, or the environment.

    b) To comply with a court order finding that denying approval would amount to a taking of property, or a court order otherwise requiring approval of a notice of intention.

    c) To plug and abandon or reabandon a well, including an intercept well needed to plug and abandon or reabandon a well.

3) Exempts underground gas storage wells and attendant facilities from all bill provisions.

4) Requires an operator who submits a notice of intention to submit a sensitive receptor inventory and map, and a statement certifying that the operator has confirmed, and CalGEM has verified, that there are no sensitive receptors within 3,200 feet of the wellhead or proposed wellhead, as provided.

5) Authorizes CalGEM to approve NOIs for the plug and abandonment or re-plug and abandonment of certain wells submitted by public and private entities who own, purchase or lease land for non-fossil fuel development or production or injection or related purposes, as provided. Prohibits these public or private entities, their tenants, lessors or occupants from engaging in oil or gas development or production or injection or related purposes, as provided.

6) Requires all oil or gas production facilities or wells within a health protection zone to be in compliance with additional requirements starting January 1, 2025, that include limiting nighttime noise and light pollution, dust control and vapor venting requirements, representative chemical analyses of certain produced waters, and publicly posted contact information, as specified.

7) Requires all operators with a production facility or wellhead in a health protection zone to develop a leak detection and response plan (plan).

    a) Requires the plan to be submitted to CalGEM by January 1, 2025, and fully implemented by January 1, 2027. Requires plans submitted by January 1, 2025, to either be approved or a notice of deficiencies provided by CalGEM by January 1, 2026. Requires a plan to be subject to CalGEM approval, as specified.

    b) Requires, after January 1, 2027, the operator to suspend all production and injection operations within a health protection zone unless an approved plan is fully implemented.

    c) Requires the plan to identify chemical constituents, such as methane and hydrogen sulfide, and potential toxics of highest concern that will be detection targets for the emissions detection system to ensure early detection of leaks. Authorizes methane to serve as a surrogate for certain chemical constituents, as provided. Requires the use of a continuously operating emissions detection system with an alarm system, as specified.

    d) Requires an alarm system protocol in the plan so that if a leak is not stopped within 48 hours, the surrounding community is notified in appropriate languages.

e) Authorizes the California Air Resources Board (CARB), CalGEM, and the State Water Resources Control Board (SWRCB) to adopt regulations to implement and set standards for the emissions detection system.

f) Requires CalGEM and CARB to collaborate to develop methods for providing public access to data generated from operators' emissions detection systems.

g) Requires CalGEM to hold at least three public workshops to provide information and guidance to operators and the public on the plans, as provided. Requires CalGEM to hold at least on public technical workshop at least biennially to provide information and guidance to operators on best practices related to the plans.

h) Requires an operator's plan to be reviewed and updated at least once every five years. Requires operators to maintain records of emissions for 10 years, as provided.

i) Requires, starting July 1, 2023, the supervisor to notify applicable legislative committees on progress towards achieving the deadlines in subdivision (a).

8) Requires, prior to commencing work that requires a NOI, the operator to provide baseline and follow-up groundwater testing to property owners and tenants within the health protection zone, as provided. Requires water quality data to be reported to the SWRCB, as specified.

9) Requires an operator to submit annually to CalGEM a sensitive receptor map and inventory starting July 1, 2023, as provided. Requires CalGEM to review at least 30 percent of the submissions annually.

10) Requires an operator in the health protection zone starting January 1, 2027, to annually submit certain information about operations in the health protection zone to CalGEM, as specified. Requires CalGEM to submit an annual report to the Legislature starting by July 1, 2027, concerning the implementation of health safety zones and related matters.

11) Authorizes CalGEM, CARB, and the SWRCB to use emergency rulemaking to implement this bill. Provides that the emergency regulations remain in effect for two years, as specified. Requires CARB, SWRCB, certain local air districts and local water quality control boards to enter into memoranda of understanding (MOUs) with CalGEM to clearly delineate respective responsibilities pursuant to this bill. Requires the MOUs to be executed by June 1, 2023.

12) Provides a savings provision for the authority or jurisdiction of state regulators, as specified. Provides that a city, county, or city and county may impose more stringent regulations, limit, or prohibitions on oil and gas development. Provides that the supervisor's authority to deny, revoke, or suspend permits is not diminished or altered by this bill, as provided.

13) Provides that provisions of this bill are severable, and makes relevant legislative findings and declarations.

Background

In November 2019, the Newsom Administration issued a press release ordering three actions specific to oil and gas development and production. One of the actions announced the start of what was intended to become a regulatory process to update public health and safety protections for communities near oil and gas production operations. As part of that effort, CalGEM convened a panel of public health and other experts on the California Oil and Gas Public Health Rulemaking Scientific Advisory Panel (Panel). In an October 1, 2021 letter to the Newsom Administration, the Panel stated:

> Our Panel concludes with a high level of certainty that the epidemiological evidence indicates that close residential proximity to oil and gas development is associated with adverse perinatal and respiratory outcomes, for which the body of human health studies is most extensive in California and other locations.

The Panel also concluded "with a high level of certainty that concentration of health-damaging air pollutants, including criteria air pollutants and toxic air contaminants, are more concentrated near oil and gas development activities compared to further away," and that "studies consistently demonstrate evidence of harm at distances less than 1 km, and some studies also show evidence of harm linked to oil and gas development activity at distances greater than 1 km."

One kilometer is approximately 3,200 feet. Existing CalGEM regulations protect against acute risks to public health and safety (i.e. well blowouts during drilling), and do not appear designed to address chronic, low-level exposures to potential emissions of oil and gas wells and related facilities.

Through zoning and local ordinances, many local jurisdictions throughout the state have established setback distances for new oil and gas wells and various permitting requirements depending upon land use. There are some locations where oil and gas wells are in close proximity to housing (within 100 feet), and some locations where oil and gas development pre-dates local zoning requirements.

Comments

CalGEM retains authority to continue its public health rulemaking. Discussion draft regulations were released in December 2021, and public comment taken. Certain elements proposed in the discussion draft regulations are incorporated into this bill. CalGEM retains the authority to continue its public health rulemaking, and is further authorized to seek emergency regulations to implement this bill.

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

Unknown with latest amendments.

SUPPORT: (Verified 8/29/22)

1000 Grandmothers for Future Generations
350 Bay Area Action
350 Conejo/San Fernando Valley
350 Humboldt
350 Sacramento
350 Silicon Valley
350 Southland Legislative Alliance
350 Ventura County Climate Hub
Active San Gabriel Valley
Alliance of Nurses for Healthy Environments
Azul
Better World Group
Black Women for Wellness
California Climate Voters
California Communities Against Toxics
California Environmental Voters
California Faculty Association
California Federation of Teachers
California Green New Deal Coalition
California Safe Schools
California School Employees Association
California Teachers Association
Californians Against Waste
CALPIRG
Carbon Cycle Institute
CEJA Action
Center for Biological Diversity
Center on Race, Poverty, and the Environment
Central California Environmental Justice Network

Central Valley Air Quality Coalition
Citizen's Climate Lobby – LA West Chapter
Clean Water Action
Climate First: Replacing Oil & Gas
Climate Health Now
Climate Reality Bay Area Chapter
Coalition for Clean Air
Communities for a Better Environment
Community Water Center
Conejo Climate Coalition
Congregation Beth Am Dayenu Circle
Congregation Netivot Shalom Climate Tzedek
Courage California
Crop Swap LA
Dayenu Circle of Congregation Shir Ami in Castro Valley
Dayenu Circle of Jewish Silicon Valley
Dayenu: A Jewish Call to Climate Action
Earthjustice
Ecology Center
Elder Climate Action – NorCal Chapter
Elder Climate Action – SoCal Chapter
Environment California
Environmental Defense Fund
Environmental Working Group
Fierce Courage
Food & Water Watch
Fossil Free California
FracTracker Alliance
Friends Committee on Legislation of California
Glendale Environmental Coalition
Greenpeace USA
Hall Enterprises
Heal the Bay
Indivisible Sacramento
Indivisible Ventura
Leadership Counsel for Justice and Accountability
Let's Green CA!
Liberty Hill Foundation
Local Clean Energy Alliance
Long Beach Alliance for Clean Energy
Los Angeles County Dayenu Circle

Miracle Mile Democratic Club
Mothers Out Front Silicon Valley
Napa Climate Now!
Natural Resources Defense Council
NextGen California
Northern California Recycling Association
Oil and Gas Action Network
Orange County Environmental Justice
Pacific Environment
Pacoima Beautiful
Peninsula Interfaith Climate Action
Peninsula Temple Beth El
Peninsula Temple Beth El Rodfei Tzedek Leadership Team
Physicians for Social Responsibility – Los Angeles Chapter
Physicians for Social Responsibility – Sacramento Chapter
Physicians for Social Responsibility – San Francisco Chapter
Planning and Conservation League
Plastic Oceans International
Plastic Pollution Coalition
Protect Playa Now
RAC-CA/California Religious Action Center of Reform Judaism
Richmond Our Power Coalition
Rincon-Vitova Insectaries
Sacramento Area Congregations Together
Sacred Ground
San Diego 350
San Fernando Valley Young Democrats
Save Our Shores
Save the Albatross Coalition
SBCAN
SEIU California
Seventh Generation Advisors
Sierra Club California
SoCal 350 Climate Action
Stand.earth
Strategic Concepts in Organizing and Policy Education
Sunflower Alliance
Sunrise Bay Area
Sunrise Los Angeles Youth
Surfrider Foundation
Temple Beth El, Aptos, CA

The 5 Gyres Institute
The Center for Oceanic Awareness, Research, and Education
The Climate Center
The Climate Reality Project – Los Angeles Chapter
The Climate Reality Project – San Fernando Valley
The Greenlining Institute
The Kitchen SF Rainmakers
The Nature Conservancy
The Orchard
Transformative Wealth Management, LLC
Upstream
Voices for Progress
Voices in Solidarity Against Oil in Neighborhoods
Wishtoyo Chumash Foundation
Zero Waste USA

OPPOSITION: (Verified 8/29/22)

African American Farmers of California
Agilitech
American Pistachio Growers
Asian Industry Business to Business
Banning Chamber of Commerce
Beaumont Chamber of Commerce
Big Bear Chamber of Commerce
Big Red Crane Co.
BrandSafway
C&J Energy Services
California Alliance of Business Associations
California Chamber of Commerce
California Fuels & Convenience Alliance
California Hispanic Chambers of Commerce
California Independent Petroleum Association
Calimesa Chamber of Commerce
Carson Chamber of Commerce
Central California Association of Builders and Contractors
Central Valley Energy Coalition
Chino Valley Chamber of Commerce
City of Taft
Coalinga Chamber of Commerce
Coalition of California Chambers – Orange County
Coastal Energy Alliance

Corona Chamber of Commerce
County of Kern
Fontana Chamber of Commerce
Fresno Chamber of Commerce
Fresno County Farm Bureau
Fresno Deputy Sheriff's Association
Garden Grove Chamber of Commerce
Greater Bakersfield Chamber of Commerce
Greater Coachella Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Greater Los Angeles African American Chamber of Commerce
Greater Ontario Chamber of Commerce
Harbor Association of Industry and Commerce
Hemet San Jacinto Chamber of Commerce
Highland Area Chamber of Commerce
Hmong Business Incubator
Inland Empire Economic Partnership
Kern Citizens for Energy
Kern County Economic Development Corporation
Kern County Farm Bureau
Kern County Firefighters
Kern County Hispanic Chamber of Commerce
Kern County Oil Contractors Association
Kern County Taxpayers Association
Krazan & Associates
Latin Business Association
Long Beach Area Chamber of Commerce
Los Angeles Area Chamber of Commerce
Los Angeles Latino Chamber of Commerce
Madera County Farm Bureau
Menifee Valley Chamber of Commerce
Milk Producers Council
MJ Tank Lines
Moreno Valley Chamber of Commerce
Murrieta Wildomar Chamber of Commerce
National Association of Royalty Owners, California Chapter
National Federation of Independent Business
Nisei Farmers League
North of the River Chamber of Commerce
Numeric Solutions, LLC
Orange County Business Council

Orange County Hispanic Chamber of Commerce
OST Truck and Crane
Perris Valley Chamber of Commerce
Pomona Chamber of Commerce
R & R Pumping Unit Repair & Service
Rancho Cucamonga Chamber of Commerce
Redondo Beach Chamber of Commerce
Robin Brassfield-Cooper
San Gabriel Valley Economic Partnership
San Joaquin County Farm Bureau
San Juan Chamber of Commerce
San Pedro Chamber of Commerce
Si Se Puede!
South Bay Association of Chambers of Commerce
Southwest California Legislative Council
Sustainable Ag and Energy (SAGE) Monterey
Taft Chamber of Commerce
The Business Federation (BizFed-Central Valley)
The Business Federation (BizFed-Los Angeles)
The Honorable Adam Adkisson, Councilmember, City of Coalinga
The Honorable Brian Pacheco, Supervisor, County of Fresno
The Honorable Buddy Mendes, Supervisor, County of Fresno
The Honorable Dennis Townsend, Supervisor, County of Tulare
The Honorable Doug Verboon, Supervisor, County of Kings
The Honorable Drew Bessinger, Councilmember, City of Clovis
The Honorable Garry Bredefeld, Councilmember, City of Fresno
The Honorable Jesus Mendoza, Mayor Pro Tem, City of Mendota
The Honorable Joe Neves, Supervisor, County of Kings
The Honorable Larry Micari, Supervisor, County of Tulare
The Honorable Luis Chavez, Councilmember, City of Fresno
The Honorable Mike Karbassi, Councilmember, City of Fresno
The Honorable Nathan Magsig, Supervisor, County of Fresno
The Honorable Oscar Rosales, Councilmember, City of Mendota
The Honorable Pete Vander Poel, Supervisor, County of Tulare
The Honorable Ray Singleton, Councilmember, City of Coalinga
The Honorable Richard Valle, Supervisor, County of Kings
The Honorable Robert Poythress, Supervisor, County of Madera
The Honorable Rolando Castro, Mayor, City of Mendota
The Honorable Ron Ramsey, Mayor, City of Coalinga
The Honorable Rudy Mendoza, Mayor, City of Woodlake
The Honorable Sal Quintero, Supervisor, County of Fresno

The Honorable Steve Brandau, Supervisor, County of Fresno
The Honorable Vong Mouanoutoua, Councilmember, City of Clovis
Torrance Area Chamber of Commerce
Tulare County Farm Bureau
U.S. Metals
Upland Chamber of Commerce
Valley Industry & Commerce Association
Ventura County Agricultural Association
Ventura County Coalition of Labor Agriculture and Business
Ventura County Taxpayers Association
West Ventura County Business Alliance
Western States Petroleum Association
Wilmington Chamber of Commerce

ARGUMENTS IN SUPPORT: According to the author, "Of the approximately five and a half million Californians who live within a mile of one or more oil and gas wells, one-third live in areas that are the most burdened by environmental pollution, and 92% of Californians living in these overburdened neighborhoods are people of color. Moreover, this proximity brings disastrous health implications including, increased risk of asthma and other respiratory illnesses, pre-term births and high-risk pregnancies, and cancer. Given these disproportionate, cumulative impacts on communities of color and low-income communities, state action is long overdue –the time is now to limit exposure from toxic contaminates and protect our frontline communities, vulnerable populations, and families.

"SB 1137 will mandate a 3,200-foot health and safety buffer zone between new and reworked oil and gas wells and sensitive land uses, which include schools, childcare centers, community resource centers, residential homes and live-in housing, and hospitals. In addition, SB 1137 will require oil and gas facility operators in these protection zones to implement strict air and water pollution controls and to develop response plans to protect the health of over 2 million Californians currently living within 3,200 feet of an existing oil well.

"In 2015, the California Council on Science and Technology reviewed existing scientific studies and determined that, from a public health perspective, the most significant exposures to toxic air contaminants occur within one-half mile of a well, and recommended that the State of California develop science-backed setback requirements for wells to limit these exposures. While CalGEM's own public health researchers have determined that there is no safe distance from oil and gas wells for humans—3, 200 feet will avoid some of the worst exposure and harm to public health. Recent studies consistently demonstrate evidence of harm from pollutants and extraction consequences at distances less than 1 kilometer. SB

1137 takes a science based approach to protecting public health and follows other state jurisdictions that have already required setbacks requirements."

ARGUMENTS IN OPPOSITION: According to a joint sign-on letter in opposition, the Western States Petroleum Association (WSPA) and others write, "SB 1137 completely undermines the Governor's own three-year regulatory process, currently underway at the Geologic Energy Management Division (CalGEM), to enact rules for health and safety around oil and gas extraction facilities. […] The Governor and CalGEM have repeatedly said they want to rely on the best available science to determine any potential setback and ensured all stakeholders have had input into the process.

"An 11th hour bill, with no real input or debate, completely undermines the current regulatory and legislative process."

WSPA further argues that the bill "results in a significant loss of revenue and costs the state BILLIONS. […] According to an Assembly Appropriations Committee's analysis of a prior setback bill (AB 345 Muratsuchi, 2019), SB 1137 could cost up to $4 billion dollars [sic] in lost state and local revenue, as well as subject the state to significant legal liability under the takings clause of the U.S. Constitution. Regionally, the largest impact would be found in Los Angeles County, followed by Kern, Orange, and Ventura Counties."

They continue, "SB 1137 would lead to a loss of high wage, blue-collar jobs in California and hundreds of millions of dollars in lost revenue to state and local governments."

"This bill will simply result in increased imports from foreign sources who do not operate under the same environmental standards as producers in California. It will only lead to significantly higher transportation costs and an increase in greenhouse gasses and other emissions associated with bringing that oil into the state."

Prepared by: Katharine Moore / N.R. & W. / (916) 651-4116
8/30/22 23:16:33

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

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UNFINISHED BUSINESS

Bill No: SB 1158
Author: Becker (D), et al.
Amended: 8/25/22
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 10-2, 4/26/22
AYES: Hueso, Becker, Dodd, Eggman, Gonzalez, Hertzberg, McGuire, Min, Rubio, Stern
NOES: Dahle, Borgeas
NO VOTE RECORDED: Bradford, Grove

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: Not available

SUBJECT: Retail electricity suppliers: emissions of greenhouse gases

SOURCE: Author

DIGEST: This bill requires every retail supplier to annually report information concerning electricity supply used to serve load to the State Energy Resources Conservation and Development Commission (CEC), including the retail supplier's

sources of electricity and the emissions of greenhouse gases (GHGs) associated with those sources of electricity.

Assembly Amendments clarify the treatment of electricity from energy storage facilities; exempt generators providing service pursuant to Public Utilities Code Section 218 or is a cogenerating facility pursuant to Public Utilities Code Section 372; include clarifying changes regarding disclosures made in promotional material; includes chaptering amendments with SB 1432 (Hueso).

ANALYSIS:

Existing law:

1) Establishes and vests the California Public Utilities Commission (CPUC) with regulatory authority over public utilities. (Article XII of the California Constitution)

2) Requires every entity that offers an electricity product for sale to retail consumers in California to disclose its electricity sources and the associated intensity of GHG emissions for the previous calendar year. Requires a retail supplier to disclose its electricity sources as a percentage of annual sales that is derived from specified sources of energy, including eligible renewable energy resources. (Public Utilities Code §§398.1-398.5)

3) Requires the CPUC, in consultation with the California Independent System Operator (CAISO), to establish resource adequacy (RA) requirements for all load-serving entities (LSEs), including electrical corporations, electric service providers (ESPs), and community choice aggregators (CCAs), in accordance with specified objectives. (Public Utilities Code §380)

4) Requires each local publicly owned electric utility serving end-use customers to prudently plan for and procure resources that are adequate to meet its planning reserve margin and peak demand and operating reserves, sufficient to provide reliable electric service to its customers. (Public Utilities Code §9620)

5) Requires the CPUC to adopt a process for each LSE to file an integrated resource plan (IRP) and a schedule for periodic updates to the plan to ensure that the LSE meets, among other things, the state's GHGs reduction targets and the requirement to procure at least 60 percent of its electricity from eligible renewable energy resources by December 31, 2030. (Public Utilities Code §454.52)

6) Requires the governing board of a local publicly owned electric utility with an annual electrical demand exceeding 700 gigawatt hours (GWh) to adopt an IRP and a process for updating the plan at least once every five years to ensure that the local publicly owned electric utility meets, among other things, the state's GHGs reduction targets and the requirement to procure at least 60 percent of its electricity from eligible renewable resources by December 31, 2030. (Public Utilities Code §9621)

7) Requires the reduction of statewide emissions of GHGs 40 percent below 1990 levels by 2030. This is known as the *Global Warming Solutions Act of 2006*. (Health and Safety Code §38500 et seq.)

8) Requires the California Air Resources Board (CARB) to develop regulations to require the annual reporting and verification of GHG emissions. As part of this mandatory reporting, requires all retail sellers of electricity to Account for GHGs from all electricity consumed in the state, including transmission and distribution line losses from electricity generated within the state or imported from outside the state. (Health and Safety Code §38530)

This bill:

1) Defines "loss-adjusted load" to mean the total amount of electricity, measured at the utility-scale generation source, that retail supplier requires in order to provide for retail sales after electrical losses in transmission and distribution.

2) Requires, beginning January 1, 2028, every retail supplier to annually report specified information concerning electricity supply used to serve load to the CEC, including:

   a) The retail supplier's sources of electricity.

   b) The emissions of GHGs associated with those sources of electricity, to the extent feasible.

   c) An annual total of GHGs and annual average GHG emissions intensity, calculated as the annual total loss-adjusted load.

   d) An annual total of avoided GHGs.

3) Requires, on or before July 1, 2024, the CEC to adopt rules, through an open process, subject to public comment, and adopted by a vote of the CEC, to implement these reporting requirements.

4) Requires the CEC to share the information reported by retail sellers with the CPUC, CARB, and the CAISO, to the extent needed, and to annually publish on its internet website an aggregated summary of the data reported by each retail supplier.

5) Requires all sellers of electricity from generation facilities or energy storage facilities, and entities allocating electricity from specified sources, to timely provide information to the purchaser of, or entity allocated, that electricity.

6) Requires the CPUC, for all LSEs, and the governing board, for each local publicly owned electric utility, to review the total annual emissions of GHGs and the annual average GHG emissions intensity reported for each LSE or local publicly owned electric utility.

7) Authorizes the CPUC, for all LSEs, and the governing board, for each local publicly owned electric utility, to assess whether those emissions of GHGs, combined with the LSE's or local publicly owned electric utility's procurement plans for subsequent years, demonstrate adequate progress toward achieving the LSE's or local publicly owned electric utility's GHG emissions reduction targets.

8) Requires the CPUC to calculate and publish on its internet website the percentage of each LSE's local and system RA requirements from the previous calendar year that was met with capacity from eligible renewable energy resources, other zero-carbon resources, or energy storage resources.

9) Incorporates additional changes to Section 380 of the Public Utilities Code proposed by SB 1432 (Hueso, 2022) to be operative only if this bill and SB 1432 are enacted and this bill is enacted last.

Background

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 to 60 percent by 2030, 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 percent clean energy. SB 100 also required 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 SB 100 Joint Agency report was released in 2021.

Renewable Portfolio Standard (RPS). California's ambitious RPS program is jointly implemented and administered by the CPUC and the CEC. The RPS program requires the state's energy LSEs, including investor-owned utilities (IOUs), CCAs, ESPs and publicly owned utilities (POUs) to procure 60 percent of their total electricity retail sales from eligible renewable energy resources by 2030, and a mix of RPS-eligible and zero-carbon resources by December 31, 2045, for a total of 100 percent clean energy. The RPS requires milestones on the path to 2030, including interim goals of 25 percent by 2016, 33 percent by 2020, 44 percent by 2024, and 52 percent by 2027. The state is well on its way to achieving its existing RPS targets. Most POUs are on track to meet their 2020 goals and working towards their 2030 goals. The state's three largest electric utilities have met current procurement goals and anticipate exceeding future procurement goals, with each having procured over 40 percent eligible renewable energy resources.

Integrated Resources Plan (IRP). As required in SB 350 (De León, Chapter 547, Statutes of 2015), the IRP process requires the CPUC to identify a portfolio of resources for electricity procurement that provides optimal integration of renewable energy in a cost-effective manner, and minimize impacts on ratepayer's bills. The identification of this portfolio is intended to guide LSEs' IRPs, which help ensure that utilities meet GHG reduction targets for the electricity sector. As part of the IRP planning cycle, the CPUC adopts a reference system plan, which identifies the energy procurements needed to help the LSEs meet specific GHG reduction goals. In the most recent IRP decision (D.22-02-004) adopted in February of this year, the CPUC adopted a 38 million metric ton (MMT) 2030 electric sector GHG emissions planning target for the 2021 Preferred System Plan (PSP) portfolio. The PSP portfolio includes approximately 25,500 megawatts (MW) (nameplate capacity) of new supply-side renewables, and 15,000 MW of new storage and demand response resources, by 2032, in addition to existing resources. The PSP portfolio includes long-lead time resources, including out-of-state renewables and offshore wind—two resource types the CPUC will continue evaluating moving forward. The PSP orders procurement of two storage resources that were identified by the CAISO as alternatives to transmission upgrades in the previous TPP cycle.

Clean System Power calculator. CPUC staff developed a Clean System Power (CSP) calculator tool for use in estimating GHG and criteria pollutant emissions of energy portfolios. The CSP calculator tool is for LSEs to use in estimating the GHG and criteria pollutant emissions of their portfolios. Importantly, the

calculator is not intended to be used as an after-the-fact compliance tool, but rather to provide LSEs a simple and uniform way of estimating the emissions associated with their IRP portfolios. The core function of the CSP tool is to assign GHG and criteria air pollutant emissions associated with the CAISO system's dispatchable thermal generation and unspecified imports ("system power") to LSEs based on how each LSE plans to rely on CAISO system power to meet its load on an hourly basis. The tool also calculates GHG and criteria air pollutant emissions from other electric generation sources that can be attributed to an LSE's energy resource portfolio.

CARB GHG Mandatory Reporting Requirements. Reporting of GHG emissions by major sources is required by the California Global Warming Solutions Act of 2006 (AB 32). The Regulation for the Mandatory Reporting of GHG Emissions (MRR) is applicable to electricity generators, industrial facilities, fuel suppliers, and electricity importers. A summary of reported GHG emissions data reported under MRR are made public each year, and the data is used by the Cap-and-Trade Program and included in the state's GHG Inventory.

CEC Power Source Disclosure program. The Power Source Disclosure (PSD) program was established by SB 1305 (Sher, Chapter 796, Statutes of 1997) in an effort to provide retail electricity consumers "accurate, reliable, and simple to understand information on the sources of energy that are used to provide electric services." In 2016, the CEC adopted modifications to the regulations to incorporate statutory changes to program rules and reporting requirements as required by statute. AB 1110 (Ting, Chapter 656, Statutes of 2016) further modified the PSD Program and Power Content Label by requiring retail suppliers to disclose the GHG emissions intensity (the rate of emissions per unit of electricity) associated with each electricity portfolio beginning in 2020 for the 2019 reporting year. AB 1110 also required the CEC, among other things, to determine a format for disclosing unbundled renewable energy credits (RECs) as a percentage of annual retail sales. The PSD program provides consumers a detailed view into the sources of electricity purchased by their retail suppliers to power their homes and businesses. This information is provided through annual Power Content Labels, which resemble nutrition labels, with a breakdown of energy resources such as solar photovoltaic and thermal-electric, wind, geothermal, nuclear, large hydroelectric, and natural gas.

Comments

Concerns with annual reporting of GHGs. Proponents of this bill support the proposed hourly reporting of the GHG emissions. Many of the current reporting

requirements use an annual accounting methodology which proponents of this bill argue is insufficient as it does not consider the mismatch between hourly deliveries from supplies procured by retail suppliers and the hourly customer load they serve. Proponents take particular issue with the annual methodology's failure to capture reliance on unspecified power by retail suppliers during many hours of the year (much of which is primarily produced by fossil fuel generation).

Excludes small utilities. This bill excludes electrical cooperatives and local publicly owned electric utilities with annual electrical demand less than or equal to 700 gigawatthours from the reporting, evaluation, and progress assessment requirements of this bill.

Related/Prior Legislation

SB 1020 (Laird, et al, 2022), among its many provisions, establishes interim targets to achieve the SB 100 policy of 100 percent renewable energy and zero-carbon resources by 2045. The bill is currently in Engrossing and Enrolling.

SB 881 (Min, 2022) requires the CPUC to require each energy LSE to undertake sufficient procurement to achieve a diverse, balanced, and reliable statewide portfolio and realize specified electricity sector GHG emissions reductions. The bill was held in the Senate Appropriations Committee.

SB 1432 (Hueso, 2022) makes clarifying changes to the RA statute, including requiring a report of each LSE's compliance status. The bill is currently in Engrossing and Enrolling.

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.

AB 1110 (Ting, Chapter 656, Statutes of 2016) required every retail supplier of electricity in California annually to report to its customers the GHG emissions intensity of the supplier's electricity sources.

AB 162 (Ruskin, Chapter 313, Statutes of 2009) modified and streamlined power source disclosure reporting requirements for POUs and other electricity providers.

SB 1305 (Sher, Chapter 796, Statutes of 1997) first required retail suppliers to disclose their power sources.

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

According to the Assembly Appropriations Committee:

1) The CEC estimates this bill will require two positions and $300,000 ongoing from the Energy Resource Programs Account (ERPA) Fund. (The Department of Finance cautions ERPA—the CEC's primary operating fund—is in a structural deficit, and that any increase in ERPA expenditures may accelerate the need for an increase in the statewide surcharge on electricity consumption that provides revenue for this fund.)

2) The CPUC estimates this bill will require three additional positions and $681,000 ongoing from the Public Utilities Reimbursement Account (PURA) to review and assess retail suppliers' hourly GHG emissions respective to retail supplier's annual emissions targets.

SUPPORT: (Verified 8/29/22)

350 Bay Area Action
350 Humboldt: Grass Roots Climate Action
350 Silicon Valley
Breathe California
California Efficiency + Demand Management Council
California Energy Storage Alliance
California Environmental Justice Alliance
California Environmental Voters
California Public Interest Research Group
Carbon Free Mountain View
Carbon Free Palo Alto
Carbon Free Silicon Valley
Clean Air Task Force
Coalition of California Utility Employees
Elders Climate Action, NorCal Chapter
Elders Climate Action, SoCal Chapter
Environment California
Menlo Spark
Natural Resources Defense Council
Pacific Gas & Electric Company
Peninsula Clean Energy Authority
San Diego Gas & Electric
Silicon Valley Youth Climate Action
Sonoma Clean Power

The Climate Reality Project – San Fernando Valley Chapter
The Utility Reform Network

OPPOSITION: (Verified 8/29/22)

None received

ARGUMENTS IN SUPPORT: According to the author:

> As California's electricity sector makes progress toward 100% clean energy, the main interim requirements for electricity suppliers will be the annual greenhouse gas (GHG) emissions targets set for each of them. Unfortunately, we have no information today on what the actual GHG emissions are for each electricity supplier, so we have no means for holding suppliers accountable to achieving their targets. How can we manage something that we are not measuring? SB 1158 establishes reporting requirements for electricity suppliers to close this gap – so that we can measure progress against their GHG emissions targets and ensure that the electricity sector is on track to achieve our 100% clean energy goals.
>
> We have ways to measure whether suppliers are meeting their RA obligations (for reliability) and their RPS obligations, but we have no equivalent measurement of their actual GHG emissions for a year that can be compared to their targets. How can we hold suppliers accountable to a target if we never measure their results?

Prepared by: Nidia Bautista / E., U. & C. / (916) 651-4107
8/30/22 23:13:59

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

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UNFINISHED BUSINESS

Bill No: SB 1208
Author: Hueso (D), et al.
Amended: 8/25/22
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 10-0, 4/26/22
AYES: Hueso, Becker, Borgeas, Dodd, Eggman, Gonzalez, McGuire, Min, Rubio, Stern
NO VOTE RECORDED: Dahle, Bradford, Grove, Hertzberg

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

SENATE FLOOR: 36-0, 5/24/22
AYES: Allen, Atkins, Bates, Becker, Borgeas, Bradford, Cortese, 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, Dahle, Hertzberg

ASSEMBLY FLOOR: 75-0, 8/30/22 - See last page for vote

SUBJECT: Low-income utility customer assistance programs: concurrent application process

SOURCE: Author

DIGEST: This bill requires the California Public Utilities Commission (CPUC), on or before June 30, 2024, in coordination with other relevant state agencies, that provide low-income electric or gas utility customer assistance programs, to develop a process that enables customers to concurrently apply, or begin to apply, to multiple low-income customer assistance programs.

Assembly Amendments remove the requirement to include water, telecommunications, and non-CPUC energy assistance programs in the required

concurrent enrollment process. The amendments also add a report to the Legislature on recommendations for the use of a third-party verification system to enroll eligible residents in multiple programs.

ANALYSIS:

Existing law:

1) Establishes and vests the CPUC with regulatory authority over public utilities, including gas corporations, electrical corporations, telephone corporations, and water corporations, while local publicly owned electric utilities are under the direction of their governing boards. (Article XII of the California Constitution)

2) Authorizes the CPUC to fix the rates and charges for every public utility and requires the CPUC to ensure that low-income ratepayers are not jeopardized or overburdened by monthly energy expenditures. (Public Utilities Code §§451 and 382)

3) Requires the CPUC to ensure that an electrical corporation or gas corporation with a CPUC-approved program to provide discounts based on economic need use a single application form to enable an applicant to alternatively apply for any assistance program for which the applicant may be eligible. (Public Utilities Code §739.1)

4) Establishes the Universal Lifeline Telephone Services program by requiring the CPUC to create a class of Lifeline service needed to meet basic communications needs, set rates and charges for the Lifeline program, develop eligibility criteria, and assess progress towards universal service goals, including access to telephone service by income, ethnicity, and geography. (Public Utilities Code §871 *et seq.)*

5) Establishes the Family Electric Rate Assistance (FERA) program, an assistance program for low-income residential customers of the state's three largest electric investor-owned utilities (IOUs) with households of three or more persons whose total annual household incomes fall between 200 percent and 250 percent of the federal poverty guideline levels. The FERA program offers an 18 percent line-item discount applied to an eligible customer's bill. (Public Utilities Code §739.12)

6) Requires an electrical or gas corporation to perform home weatherization services for low-income customers if the CPUC determines that a significant

need for those services exists in the utility's service territory, as specified. (Public Utilities Code §2790)

7) Requires the CPUC to consider programs to provide rate relief for low-income ratepayers of water corporations (known as the Customer Assistance Program (CAP)). (Public Utilities Code §739.8)

8) Establishes the Community Services and Development Department (CSD) as a department within the California Health and Human Services Agency, and tasks CSD with implementing several types of federal assistance to help low-income households meet their energy needs. (Government Code §§12085-12091 and 16366.1-16367.8)

9) Establishes the Low-Income Oversight Board (LIOB) to advise the commission on low-income electric, gas, and water customer issues and to serve as a liaison for the commission to low-income ratepayers and representatives. (Public Utilities Code §382.1)

This bill:

1) Requires the CPUC, on or before June 30, 2024, in coordination and consultation with the CSD and other relevant state agencies that provide low-income electric or gas utility customer assistance programs, to develop a process that enables customers to concurrently apply, or begin to apply, to multiple low-income customer assistance programs.

2) Requires the LIOB, on or before June 30, 2023, to submit a report to the Legislature regarding the opportunity and process for expanding the third-party administrator contract used for the Universal Lifeline Telephone Service program, or establishing a similar new contract, to include water, gas, and electric utility service for purposes of facilitating enrollment between low-income assistance programs, minimizing privacy and data sharing concerns, and expediting eligibility verification processes.

Background

CPUC administers and oversees several low-income assistance programs:

CARE program. Statute requires the CPUC to establish the CARE program, which provides assistance to low-income electric and gas customers with annual household incomes less than 200 percent of federal poverty guideline levels. The

cost of this program is spread across multiple classes of customers. AB 327 (Perea, Chapter 611, Statutes of 2013) restructured the rate design for residential electric customers, including directing the CPUC to establish rates for the CARE program customers of the large electric IOUs. The set rates must effectively give a discount between 30 percent and 35 percent to eligible customers of electrical corporations with 100,000 or more customer accounts. Electrical corporations with fewer than 100,000 customer accounts offer a 20 percent discount. Customers may also be eligible for CARE if they are enrolled in public assistance programs, such as: Medicaid/Medi-Cal, WIC (Women, Infant, Children Program), Healthy Families A&B, National School Lunch's Free Lunch Program, Food Stamps/SNAP, Low Income Home Energy Assistance Program, Head Start Income Eligible, Supplemental Security Income, Bureau of Indian Affairs General Assistance, and Temporary Assistance for Needy Families. CARE enrollment participation rates are generally in the 80 percent or more of the eligible population for most of the energy utilities.

FERA program. Customers whose household income slightly exceeds the CARE allowance (up to 250 percent of federal poverty level) qualify to receive FERA discounts. Unlike CARE, FERA applies an 18 percent discount to customers of the state's three largest electric utilities – Southern California Edison (SCE), San Diego Gas & Electric Company (SDG&E), and Pacific Gas & Electric Company (PG&E). FERA was established through a CPUC decision involving the electric IOUs and ratepayer organizations and codified in statute in 2018 by SB 1135 (Bradford, Chapter 413). FERA is an effort to help families who may have incomes that are just above the income eligibility for CARE, but who likely still experience hardships paying their electric utility bills. Unlike CARE, FERA enrollment participation rates are low across the board for all three utilities.

Energy Savings Assistances (ESA) program. One of the state's oldest energy assistance programs, with origins in a 1983 decision by the CPUC, the ESA Program is one of the key assistance programs administered by the state's four largest IOUs. The ESA Program offers no-cost energy efficiency measures and non-energy benefits for income-qualified households. Services provided include attic insulation, energy-efficient refrigerators, energy-efficient furnaces, weather-stripping, caulking, low-flow showerheads, water heater blankets, and door and building envelope repairs that reduce air infiltration. In providing these energy efficiency and weatherization measures, the ESA Program is able to help low-income families reduce energy consumption and optimize a more efficient use of energy, while improving quality of life and comfort. Both participating and non-participating ratepayers fund the ESA Program via a surcharge on electric and gas

utility bills. For each budget cycle, the CPUC approves budgets for, and directs the electric and gas IOU's administration of, the ESA Program. Customers whose income falls at 200 percent of federal poverty are eligible for the program. Beginning in July 1st of this year, income eligibility will be adjusted, pursuant to SB 756 (Hueso, 2021), to include customers whose income falls at or below 250 percent of federal poverty.

Customer Assistance Program (CAP) for water utilities. The CPUC has authorized the largest nine water IOUs to offer low-income rate assistance programs similar in concept to those provided to electricity customers through CARE. However, each program varies in terms of the amount of the assistance provided to customers and the collection of the surcharge from non-participating customers to cover the cost of the program. All nine Class A water utilities, one Class B in a few districts, and one Class C water utility offer discounts on the monthly bills for qualifying low-income customers. Water utilities will be slowly transitioning the unique names of their low-income assistance programs to the uniform name CAP pursuant to CPUC Decision (D.)20-08-047. Discounts and surcharges supporting the programs are reviewed in each utility's general rate cases.

Lifeline program. The Lifeline program was created in the mid-1980s to ensure that low-income families could afford basic telephone service after the breakup of the Bell telephone system raised concerns about increasing local telephone costs. California's Lifeline program pre-dates the federal Lifeline program. The federal Lifeline program helps lower a participant's communications bill by $9.25 per month, and California's Lifeline program provides $14.85 per month in assistance. These discounts are provided directly to the communications provider. When enrolled in both programs, a California Lifeline subscriber can lower their communications bill by approximately $25 per month. The CPUC has broad authority over the Lifeline program, but benefits are coordinated with federal rules. While California administers the Lifeline program at the state level with a third-party administrator, the FCC administers the Lifeline program at the federal level through USAC (Universal Service Administrative Company).

CSD energy assistance programs. CSD is charged with helping to reduce poverty for Californians by leading the development and coordination of effective and innovative programs for low-income Californians. CSD administers local community services and energy assistance programs through a network of community-based organizations and nonprofit regional administrators to deliver services to low-income families, individuals, and communities with the goal of helping them achieve economic security and a higher quality of life. CSD

administers several low-income energy assistance programs. The CSD has also recently been designated to administer the water crisis assistance funding from the federal funds in response to the COVID-19 crisis, and energy debt relief programs adopted by the Legislature.

CPUC Universal Application System (UAS) Working Group. In June 2020, the CPUC adopted decision (D. 21-06-015) with directed electric utilities to establish a UAS Working Group with stakeholders. The working group is intended to work towards a single application portal for, at minimum, the ESA, CARE, and FERA programs. Additionally, the working group would support and connect to other low-income and clean energy programs, including non-IOU programs. The UAS would allow for multiple registration pathways: online, in-person, by phone, text, and email. The working group consists of membership from community-based organizations, utilities, contractors, and other stakeholders.

Comments

Need for universal application process. As noted above, the CPUC is embarking on development of a UAS process. Although the CPUC is currently focused on CARE, FERA, and ESA programs for the UAS, they note that they are open to including other programs in the future, including non-utility programs. The proponents of this bill would like to ensure other CPUC low-income assistance programs are included in the effort, including those for water and telecommunications customers. As such, this bill requires the LIOB to provide a report with recommendations to the Legislature, including recommendations regarding third-party enrollment and eligibility verification.

Related/Prior Legislation

SB 756 (Hueso, Chapter 248, Statutes of 2021) defined, beginning July 1, 2022, "low-income customers" for the purposes of eligibility for the ESA program to mean low-income persons or families with household income at or below 250 percent of federal poverty level.

AB 74 (Lorena Gonzalez, Chapter 410, Statutes of 2021) required the CPUC to make various changes to the enrollment and recertification process for California's Lifeline program

SB 1135 (Bradford, Chapter 413, Statutes of 2018) codified the requirements of the FERA program for the state's three largest electrical corporations and increases

the program discount from 12 percent to 18 percent line-item discount on a customer's electric utility bill.

AB 327 (Perea, Chapter 611, Statutes of 2013) restructured the rate design for residential electric customers, including directing the CPUC to establish rates for the CARE program customers of the large IOUs. The set rates must effectively give a discount between 30 percent and 35 percent to eligible customers.

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

According to the Assembly Appropriations Committee:

The CPUC notes it has already planned the development of a universal application system (UAS) through the investor-owned utilities (IOUs) per CPUC Decision 21-06-015. The CPUC cautions, however, that the workload required by this bill, and the deadline the bill establishes by which the CPUC it to complete this work, will require a significant amount of additional resources. The CPUC estimates these significant additional resources translate to one-time costs of as much as $19.3 million in fiscal year (FY) 2022-23, $7.3 million each FY 2023-24 and 2024-25, $6.7 million in FY 2025-26 and $6.5 million annually thereafter, though the CPUC warns accurate costs are difficult to identify.

These CPUC cost fund three permanent positions (one regulatory analyst, two information technology (IT) specialists) and ongoing annual data storage costs of $3 million to $6 million, as well as three limited-term positions (one regulatory analyst and two IT specialists) as well as one-time contracting costs of between $9 million and $12 million.

The CPUC further advises it is not certain it would be able to meet the bill's deadline of June 30, 2024, despite these significant resources.

SUPPORT: (Verified 8/29/22)

California Community Economic Development Association
California Water Association
California Water Service
City of Thousand Oaks
The Greenlining Institute
The Utility Reform Network
TruConnect
United Ways of California

OPPOSITION: (Verified 8/29/22)

None received

ARGUMENTS IN SUPPORT: The multiple organizations supporting this bill are supportive of a universal application process that will increase access to low-income assistance programs for essential services, including energy, water, and telecommunications. The author states that efforts to streamline the application process for low-income assistance programs helps ensure our most vulnerable residents benefit from these essential services.

ASSEMBLY FLOOR: 75-0, 8/30/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Calderon, Carrillo, Cervantes, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, 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, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, 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: Bryan, Chen, Mike Fong, Irwin, Petrie-Norris

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8/30/22 23:14:00

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

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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 ******

SENATE RULES COMMITTEE SB 1338
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SB 1338
Author: Umberg (D) and Eggman (D), et al.
Amended: 8/25/22
Vote: 21

SENATE JUDICIARY COMMITTEE: 10-0, 4/26/22
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas

SENATE HEALTH COMMITTEE: 9-0, 4/27/22
AYES: Pan, Eggman, Gonzalez, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Melendez, 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: Not available

SUBJECT: Community Assistance, Recovery, and Empowerment (CARE) Court Program

SOURCE: Governor Gavin Newsom

DIGEST: This bill establishes the Community Assistance, Recovery, and Empowerment (CARE) Act.

Assembly Amendments add a two-cohort implementation rollout, with the first cohort of counties implementing the CARE Act by October 1, 2023, and the second cohort implementing the CARE Act by December 1, 2024; make implementation contingent on the Department of Health Care Services (DHCS) developing a CARE Act allocation of financial assistance; modify the CARE Act petition process and graduation plan structure; add privacy protections for respondents; clarify a CARE Act participant's right to refuse forcibly administered medication; remove the factual presumption that a respondent's failure to complete a CARE plan demonstrates that there are no suitable community alternatives to treat the individual; strengthen and clarify accountability measures for counties and local government entities; modify the role and administration of supporters for persons in the CARE process; require funding to be provided for counsel to be appointed for respondents in the CARE process; expand the potential funding sources for housing programs for persons in a CARE plan; and require the California Health and Human Services Agency (CHHSA) to provide specified technical assistance for the CARE Act.

ANALYSIS:

Existing law:

1) Establishes the Lanterman-Petris-Short (LPS) Act, assisted outpatient treatment (AOT), and a housing conservatorship pilot program which are intended to provide for the care of persons who suffer from a serious mental illness or substance use disorder and are unable to, or are likely to become unable to, care for their basic personal needs. (Welf. & Inst. Code, div. 5, pt. 1, §§ 5000 et seq.)

2) Provides that, where a person is found mentally incompetent before standing trial for a misdemeanor or misdemeanors, the court may order pretrial diversion for persons with a mental disorder, as defined, hold a hearing to determine whether to order modification of the defendant's treatment plan, refer the defendant to AOT, or refer the defendant to the county conservatorship investigator for possible conservatorship proceedings under the LPS Act. If the person satisfactorily completes AOT or the conservatorship, the charges shall be dismissed. (Welf. & Inst. Code, §§ 1367, 1370.01.)

This bill:

1) Establishes the CARE Act, which must be implemented by Glenn, Orange, Riverside, San Diego, San Francisco, Stanislaus, and Tuolumne Counties by

October 1, 2023, and the remaining counties by December 1, 2024, subject to delays based on a state or local emergency, or discretionary approval by the Department of Health Care Services (DHCS), up until December 1, 2025. Provide that the CARE Act only becomes operative upon DHCS, in consultation with county stakeholders, developing a CARE Act allocation to provide state financial assistance to counties to implement the CARE process.

2) Defines, for purposes of the CARE Act, certain terms, including:

   a) "CARE agreement" is a voluntary settlement agreement, which includes the same elements as a CARE plan.

   b) "CARE plan" is an individualized, appropriate range of services and supports consisting of behavioral health care, stabilization medications, housing, and other supportive services, as provided.

   c) "Graduation plan" is a voluntary agreement entered into by the parties at the end of the CARE program that includes a strategy to support a successful transition out of court jurisdiction and may include a psychiatric advance directive. A graduation plan includes the same elements as a CARE plan to support the respondent in accessing services and supports. A graduation plan may not place additional requirements on the local government entities and is not enforceable by the court.

   d) "Parties" are the person who file the petition, respondent and the county behavioral health agency, along with other parties that the court may add if they are providing services to the respondent.

   e) "Petitioner" is the entity who files the CARE Act petition, but if other than the county behavioral health agency, the court is required, at the initial hearing, to substitute the director of county behavioral health agency or their designee as the petitioner, limiting the initial petitioner's rights to potentially receiving ongoing notice of the proceedings, and the right to make a statement at the hearing on the merits of the petition, with broader participation rights only if the respondent consents.

   f) "Respondent" is the person who is subject to the petition for the CARE process.

   g) "Supporter" is an adult who assists the respondent, which may include supporting the person to understand, make, communicate, implement, or act on their own life decisions during the CARE process, including a CARE agreement, a CARE plan, and developing a graduation plan.

3) Provides that a respondent may qualify for the CARE process only if all of the following criteria are met:

   a) The person is 18 years of age or older.

   b) The person is currently experiencing a severe mental illness, as defined, and has a diagnosis identified in the disorder class: schizophrenia spectrum and other psychotic disorders, as defined in the most current version of the Diagnostic and Statistical Manual of Mental Disorders. Specifically exempts specified others conditions or disorders.

   c) The person is not clinically stabilized in on-going voluntary treatment.

   d) At least one of the following is true:

      i) The person is unlikely to survive safely in the community without supervision and the person's condition is substantially deteriorating.

      ii) The person is in need of services and supports in order to prevent a relapse or deterioration that would be likely to result in grave disability or serious harm to the person or to others.

   e) Participation in a CARE plan or agreement would be the least restrictive alternative necessary to ensure the person's recovery and stability.

   f) It is likely that the person will benefit from participation in a CARE plan or agreement.

4) Provides venue provisions for where CARE Act proceedings may be brought.

5) Allows a petition to initiate a CARE proceedings to be brought by specified adults, including a person with whom the respondent resides or a spouse, parent, sibling, child, or grandparent of the respondent, or another individual who stands in loco parentis to the respondent, and specified medical professionals, peace offices, specified local and county employees and officers, or a judge.

6) Allows a court, if a criminal defendant is found to be mentally incompetent and ineligible for a diversion, to refer the defendant to the CARE program, as provided,

7) Requires the CARE petition, which must be developed as a mandatory form by the Judicial Council (along with other forms necessary for the CARE process) and must be signed under penalty of perjury, to include, among other things,

either (a) an affidavit from a licensed behavioral health professional stating that the health professional or their designee has examined the respondent within 60 days of the submission of the petition, or has made multiple attempts to examine, but has not been successful in eliciting the cooperation of the respondent to submit to an examination, within 60 days of submission of the petition, and that the licensed behavioral health professional had determined that the respondent meets, or has reason to believe, explained with specificity in the affidavit, that the respondent meets, the diagnostic criteria for CARE proceedings, or (b) evidence that the respondent was detained for a minimum of two intensive treatments pursuant to under LPS Act, the most recent of which must be no longer ago than 60 days from the date of the petition.

8) Provides that if a person other than the respondent files a petition for CARE Act proceedings that is unmeritorious or intended to harass or annoy the respondent, and that person had previously filed a petition for CARE Act proceedings that was unmeritorious or intended to harass or annoy the respondent, the petition is grounds to declare the person a vexatious litigant, as provided.

9) Sets out the respondent's rights, including the right to be represented by counsel at all stages of a CARE proceeding, and requires the court to appoint specified counsel if the respondent does not have their own attorney.

10) Provides that all CARE Act hearings are presumptively closed to the public, subject to the respondent's right to have a family member or friend present for support or a court order granting a request if the public interest clearly outweighs the respondent's privacy interest.

11) Requires, for all CARE Act proceedings, that the judge control all hearings with a view to the expeditious and effective ascertainment of the jurisdictional facts and the ascertainment of all information relative to the present condition and future welfare of the respondent. Except where there is a contested issue of fact or law, the proceedings should be conducted in an informal, non-adversarial atmosphere with a view to obtaining the maximum cooperation of the respondent, all persons interested in respondent's welfare, and all other parties.

12) Provides that all reports, evaluations, diagnoses, or other information related to the respondent's health and all evaluations and reports, documents, and filings submitted to the court pursuant to CARE Act proceedings are confidential.

13) Requires a court, upon receipt of a CARE Act petition, to promptly review the petition to see if it makes a prima facie showing that the respondent is or may be a person described in 3).

    a) If the court finds the petitioner has not made a prima facie showing that the respondent is or may be a person described in 3), the court shall dismiss without prejudice, subject to 8).

    b) If the court finds the petitioner has made a prima facie showing that the respondent is or may be a person described in 3), and the petitioner is the county behavioral health agency, the court shall do all of the following: (i) set the matter for an initial appearance; (ii) appoint counsel; (iii) determine if the petition includes all the required information and, if not, order the county to submit a report with the information; and (iv) require notice be provided.

    c) If the court finds the petitioner has made a prima facie showing that the respondent is or may be a person described in 3), and the petitioner is not the county behavioral health agency, the court shall order the county agency to investigate whether the respondent meets the CARE proceedings criteria and is willing to engage voluntarily with the county, file a written report with the court, and provide notice, as required.

14) Allows, if the county agency is making progress to engage the respondent, the agency to request up to an additional 30 days to continue to engage and enroll the individual in treatment and services.

15) Provides that, within five days of the receipt of the report in 13), the court must review the report and either (a) dismiss the matter, if the court determines that voluntary engagement with the respondent is effective, as provided, or that the report does not support the petition's prima facie showing that the respondent meets the CARE criteria; or (b) if the court determines that the county's report supports the petition's prima facie showing that the respondent meets the CARE criteria, and engagement is not effective: (i) set an initial hearing within 14 days; (ii) appoint counsel, unless the respondent has their own counsel; and (iii) provide notice of the hearing, as provided.

16) Provides that at the initial hearing:

    a) If the petitioner is not present, the court may to dismiss the matter.

    b) If the respondent elects not to waive their appearance and is not present, allow the court to conduct the hearing in the respondent's absence if the

court makes a finding on the record that reasonable attempts to elicit the attendance of the respondent have failed, and conducting the hearing without the participation or presence of the respondent would be in the respondent's best interest.

c) Require a county behavioral health agency representative to be present, allows a supporter to be appointed, and allow a tribal representative to attend for a respondent who is tribal member, as provided, and subject to the respondent's consent.

d) If the court finds that there is no reason to believe that the facts stated in the petition are true, require the court to dismiss the case without prejudice, unless the court makes a finding on the record that the petitioner's filing was not in good faith.

e) If the court finds that there is reason to believe that the facts stated in the petition appear to be true, require the court to order the county behavioral health agency to work with the respondent and the respondent's counsel and CARE supporter to engage in behavioral health treatment. Require the court to set a case management hearing within 14 days.

f) If the petitioner is other than the county behavioral health director, substitute the county behavioral health director or their designee for the petitioner, as provided in 2e).

g) Require the court to shall set a hearing on the merits of the petition, which may be conducted concurrently with the initial appearance on the petition upon stipulation of the petitioner and respondent and agreement by the court.

17) Provides that at the hearing on the merits:

a) If the court finds that the petitioner has not shown, by clear and convincing evidence, that the respondent meets the CARE criteria, requires the court to dismiss the case without prejudice, unless the court makes a finding, on the record, that the petitioner's filing was not in good faith.

b) If the court finds that the petitioner has shown by clear and convincing evidence that the respondent meets the CARE criteria, requires the court to order the county behavioral health agency to work with the respondent, the respondent's counsel, and the supporter to engage in behavioral health treatment and determine if the parties will be able to enter into a CARE agreement. Requires the court to set a case management hearing.

18) Provides that at the case management hearing:

    a) If the parties have entered, or are likely to into, a CARE agreement, requires the court to approve or modify and approve the CARE agreement, stay the matter, and set a progress hearing for 60 days.

    b) If the court finds that the parties have not entered, and are not likely to enter, into a CARE agreement, requires the court to order a clinical evaluation of the respondent and set a clinical evaluation review hearing. The evaluation must address, at a minimum, a clinical diagnosis, whether the respondent has capacity to give informed consent regarding psychotropic medication, other information, as provided, and an analysis of recommended services, programs, housing, medications, and interventions that support the respondent's recovery and stability.

19) Requires, at the clinical evaluation review hearing, the court to consider the evaluation and other evidence, including calling witnesses, that fully complies with the rules of evidence may be considered by the court. If the court finds, by clear and convincing evidence, that the respondent meets the CARE criteria, the court must order the county behavioral health agency, the respondent, and the respondent's counsel and supporter to jointly develop a CARE plan. If the court finds that clear and convincing evidence does not support that the respondent meets the CARE criteria, the court must dismiss the petition.

20) Provides that, at the hearing to review the proposed CARE plan:

    a) Either or both parties may present a CARE plan.

    b) The court must adopt the elements of a CARE plan that support the recovery and stability of the respondent and may issue any orders necessary to support the respondent in accessing appropriate services and supports, including prioritization for those services and supports, subject to applicable laws and available funding, as provided. These orders are the CARE plan.

    c) A court may order medication if it finds, upon review of the court-ordered evaluation and hearing from the parties that, by clear and convincing evidence, the respondent lacks the capacity to give informed consent to the administration of medically necessary stabilization medication. To the extent that the court orders medically necessary stabilization medications, the medication may not be forcibly administered and the respondent’s

failure to comply with a medication order may not result in a penalty, including but not limited to contempt or the accountability measures in 29).

d) Allows for supplemental information to be provided to the court, as provided.

21) Provides that the issuance of any orders in 20) begins the CARE program timeline, which may last up to one year.

22) Requires that a status review hearing occur at least every 60 days during the CARE plan implementation. The petitioner must file with the court, and serve on the respondent and the respondent's counsel and supporter, a report not less than five court days prior to the hearing, with specified information, including progress the respondent has made on the CARE plan, what services and supports in the CARE plan were provided, and what services and supports were not provided, and any recommendations for changes to the services and supports to make the CARE plan more successful. The respondent may respond to the report and introduce their own information and recommendations.

23) Requires the court, in the 11th month of the CARE program, to hold a one-year status hearing, which is an evidentiary hearing, to determine if the respondent should graduate from the CARE plan or be reappointed for another year.

a) The respondent may be graduated from the CARE program and may be allowed to enter into a voluntary graduation plan with the county, but such a plan may not place additional requirements on the county and is not enforceable, other than a psychiatric advance directive if included.

b) If the respondent elects to accept voluntary reappointment to the CARE program, the respondent may request to be re-appointed to the program for up to one additional year, subject to court approval.

c) Allow the court to involuntarily reappoint the respondent to the CARE program for up to one year if the court finds, by clear and convincing evidence, that (i) the respondent did not successfully complete the CARE process; (ii) all of the required services and supports were provided to the respondent; (ii) the respondent would benefit from continuation of the CARE process; and (iv) the respondent currently meets the requirements in 3).

d) Provide that a respondent may be reappointed to the CARE program only for up to one additional year.

24) Provides mandatory timeframes, as well as continuances for good cause, throughout the CARE court proceedings.

25) Requires hearings to occur in person unless the court allows a party or a witness to appear remotely; the respondent may elect to appear in-person for all hearings.

26) Allows the respondent and the county behavioral health agency to appeal an adverse court determination.

27) Requires the Judicial Council to adopt rules to implement the CARE court provisions.

28) Allows the court, at any point in the proceedings, if it determines, by clear and convincing evidence, that the respondent, after receiving notice, is not participating in the CARE proceedings, to terminate respondent's participation in the CARE process. The court may then make a referral under the LPS Act, as provided.

29) Requires that, if a respondent was provided timely with all of the services and supports required by the CARE plan, the fact that the respondent failed to successfully complete their CARE plan, including the reasons for that failure: a) is a fact considered by a court in a subsequent hearing under the LPS Act, provided that hearing occurs within six months of termination of the CARE plan; and b) creates a presumption at that hearing that the respondent needs additional interventions beyond the supports and services provided by the CARE plan. Prohibit a respondent’s failure to comply with any order from resulting in nay penalty outside of this paragraph, including, but not limited to contempt or failure to appear. Prohibit a respondent’s failure to comply with a medication order from resulting in any penalty, including under this paragraph.

30) Creates a process for penalizing counties or other local government entities that do not comply with CARE court orders. If the presiding judge or designee of the county finds, by clear and convincing evidence, that a local government entity has substantially failed to comply with an order, the presiding judge or designee may impose a fine of up to $1,000 per day for noncompliance, not to exceed $25,000 for each violation. If the presiding judge or designee finds that a county is persistently noncompliant, they may appoint a special master to secure court-ordered care for the respondent at the county’s cost. In determining the application of the remedies available, the court should consider whether there are mitigating circumstances impairing the county

agency or local government entity's ability to fully comply with the CARE Act requirements.

31) Requires DHCS, in consultation with specified groups and subject to appropriation, to provide optional training and technical resources for volunteer supporters. A CARE supporter must provide specified assistance to a CARE respondent.

32) Allows a respondent to have their supporter be in any meeting, judicial proceedings, status hearing, or communication related to an evaluation; creation of the CARE plan; establishing a psychiatric advance directive; and development of a graduation plan.

33) Sets forth the duties and limitations of the supporter. Bounds a supporter 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. Prohibits a supporter from being subpoenaed or called to testify against the respondent in any CARE Act proceeding, and provides that the supporter's presence at any meeting, proceeding, or communication does not waive confidentiality or any privilege.

34) Requires the Legal Services Trust Fund Commission to provide funding to qualified legal services projects to provide appointed legal counsel in CARE proceedings. Allows the Legal Services Trust Fund Commission to enter into no bid contracts.

35) Sets forth the provisions of a CARE plan, which may include only:

    a) Specified behavioral health services;

    b) Medically necessary stabilization medications;

    c) Housing resources, as provided;

    d) Social services, as provided; and

    e) General assistance, as provided.

36) Requires that CARE participants be prioritized for any appropriate bridge housing funded by the Behavioral Health Bridge Housing program. If the county behavioral health agency elects not to enroll the respondent into a full service partnership, as defined, the court may review why not.

37) Provides that all CARE plan services and supports ordered by the court are subject to available funding and all applicable federal and state statutes, regulations, contractual provisions and policy guidance governing program eligibility, as provided.

38) Sets forth rules by which a county is responsible for the costs of providing services to CARE participants.

39) Requires CHHSA, as provided, to (a) engage an independent, research-based entity to advise on the development of data-driven process and outcome measures to guide the planning, collaboration, reporting, and evaluation of the CARE Act; (b) convene a working group to provide coordination and on-going engagement with, and support collaboration among, relevant state and local partners and other stakeholders throughout the phases of county implementation to support the successful implementation of the CARE Act, including during implementation.

40) Requires DHCS to provide training and technical assistance to county behavioral health agencies to support the implementation of the CARE Act, including trainings regarding the CARE statutes, CARE plan services and supports, supported decisionmaking, the supporter role, trauma-informed care, elimination of bias, psychiatric advance directives, and data collection.

41) Requires the Judicial Council, in consultation with others, to provide training and technical assistance to judges to support the implementation of the CARE Act.

42) Requires DHCS, in consultation with others, to provide training to counsel on the CARE statutes, and CARE plan services and supports.

43) Allows CHHSA and DHCS to enter into exclusive or nonexclusive contracts, or amend existing contracts, on a bid or negotiated basis.

44) Allows CHHSA and DHCS to implement, interpret, or make specific the CARE Act by means of plan letters, information notices, provider bulletins, or other similar instructions, without taking any further regulatory action.

45) Requires DHCS, in consultation with specified others, to prepare an annual CARE Act report including data provided by specified state or local governmental entities.

46) Requires DHCS to report on court data, as specified.

47) Requires an independent, research-based entity retained by DHCS, in consultation with others, to develop an independent evaluation of the effectiveness of the CARE Act. The independent evaluation must employ statistical research methodology and include a logic model, hypotheses, comparative or quasi-experimental analyses, and conclusions regarding the extent to which the CARE Act model is associated, correlated, and causally related with the performance of the outcome measures included in the annual reports, highlighting racial, ethnic, and other demographic disparities, and including causal inference or descriptive analyses regarding the impact of the CARE Act on disparity reduction efforts. DHCS must provide a preliminary evaluation of the effectiveness of the CARE Act to the Legislature three years after its implementation and a final report five years after implementation.

48) Requires a health care service plan and an insurance policy, after July 1, 2023, to cover various costs under the CARE program, and provide requirements for health care services plans and insurance policies, effective July 1, 2023, to cover CARE plans, as provided.

49) Provides immunity to a county, or an employee or agent of a county, for any action by a respondent in the CARE process, except when the act or omission of a county, or the employee or agent of a county, constitutes gross negligence, recklessness, or willful misconduct.

50) Includes a severability clause.

51) Adds chaptering-out amendments with SB 1223.

Comments

According to the author, “County behavioral health departments provide Medi-Cal specialty mental health services to those who are enrolled in Medi-Cal and have severe mental illness. However, many of the most impaired and vulnerable individuals remain under or un-served because (a) the individual is so impaired they do not seek out services, (b) the necessary services are not available at the right time due to administrative complexities and/or legal barriers, (c) client care lacks coordination among providers and services, resulting in fragmentation among provided services, and (d) little accountability at various levels of the system results in poor outcomes for the client, who is often living on the streets. This legislation seeks to overcome these barriers by connecting individuals to services, requiring coordination, and adding a necessary layer of accountability through the courts.”

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

According to the Assembly Appropriations Committee:

1) Costs (General Fund (GF)) in the tens of millions of dollars to Judicial Council of California (JCC) for courts to operate the CARE Act. The 2022 Budget allocates $39.5 million from the GF in fiscal year (FY) 2022-23 and $37.7 million ongoing for the courts to conduct CARE court hearings and provide resources for self-help centers. According to the Administration, it is continuing to work with the JCC and counties to estimate costs associated with this new process. JCC estimates costs of approximately $40 million to $50 million related to conducting additional hearings, expanding self-help centers, and updating court case management systems.

2) Possibly reimbursable costs (GF and local funds) in the hundreds of millions of dollars to low billions of dollars to counties, including local behavioral health departments, to provide services to CARE court participants. According to the California State Association of Counties (CSAC), costs include as much as $40,000 per participant for at least 12,000 participants (although county offices believe the number of participants could be much higher - as high as 50,000 participants), court-ordered investigations, evaluations, and reporting requirements, and one-time start-up costs. Costs to the GF will depend on whether the duties imposed by this bill constitute a reimbursable state mandate, as determined by the Commission on State Mandates.

3) Possible cost pressure (GF) to the California Department of Health and Human Services (CHHSA), possibly in the millions of dollars to engage in an independent, research-based entity to advise on the development of data-drive processes and outcome measure for the CARE Act and provide support and coordination between stakeholders during the implementation process.

4) Costs (GF) possibly in the tens of millions of dollars to the Department of Health Care Services (DHCS) to provide training to support to people enrolled in CARE court. Costs include providing technical assistance to counties and contractors, overseeing stakeholder engagement on the CARE Court model, developing guidance for counties on CARE Court responsibilities; implementing processes to support ongoing data collection and reporting; analyzing data and developing an annual legislative report; and, publishing an independent evaluation. Costs may also result from increased Medi-Cal utilization rates by individuals referred to the CARE court program, who otherwise may not have been existing beneficiaries. Possible cost savings to state public health systems to the extent that peer support services provide

support and assistance to Medi-Cal beneficiaries with mental illness and reduce the need for more expensive downstream services, such as inpatient hospitalizations or incarceration.

5) Possibly reimbursable costs (GF and local funds) in the millions of dollars to counties for public defender services. This bill requires a person to receive counsel before ruling on a CARE court petition. Section 5977, subdivision (a)(5)(A)(ii)(II) requires a court to appoint a qualified legal services project to represent any person in the CARE court program that does not already have counsel. If a legal services project declines representation, the public defender is appointed. Only 14 counties have legal services organizations and most do not have enough attorneys to handle even their existing workload. Therefore, it seems far more likely this bill will result in increased duties on county public defenders. Existing law already requires public defenders to represent individuals in LPS and other conservatorships. The

6) Cost pressure (GF), possibly in the hundreds of millions of dollars on state and local housing programs, to the extent this bill increases utilization of the specified housing programs, including the Bridge Housing program, HOME Investment Partnership Program, Housing and Urban Development (HUD) Continuum of Care program, and emergency housing vouchers, among other programs identified in this bill. In addition, as this bill reprioritizes CARE plan program participants in the Behavioral Health Bridge Housing program, it does not increase the funding for Bridge Housing in this bill. The 2021 Budget Act allocated a $12 billion multi-year investment for local governments to build housing and provide critical supports and homelessness services. The 2022 Budget Act includes an additional $3.4 billion GF over three years to continue the state's efforts by investing in immediate behavioral health housing and treatment, as well as encampment cleanup grants, and extends for an additional year support for local government efforts. It is unknown whether existing allocations for housing will be sufficient.

7) Costs (GF) to the Department of Insurance (CDI) of $17,000 in FY 2022-23 and $12,000 FY 2023-24.

8) California Department of Social Services (CDSS) reports no costs. However, this bill may result in considerable cost pressures, possibly in the millions of dollars, downstream to local county welfare departments. The Care Act will likely result in increased use of several programs such as the CalWORKS Housing Support Program, SSI/SSP, Cash Assistance Program for immigrants, CalWORKs, CalFresh, and homeless housing assistance and prevention. This

bill may generate costs in the form of local assistance, as county welfare departments will have to conduct participant eligibility, redetermination, and screening for programs. While the bill would be implemented on a county-level, the workload for CDSS to provide technical assistance, program monitoring, and to issue new or updated guidance or all county letters to implement the bill may result in the need for GF money.

9) Department of Managed Health Care (DMHC) reports costs (GF) to draft regulations and provider technical assistance will be minor and absorbable.

SUPPORT: (Verified 8/29/22)

Governor Gavin Newson (source)
Alameda County Families Advocating for the Seriously Mentally Ill
Association of California Cities – Orange County
Bay Area Council
Big City Mayors
Building Owners and Operators Association
California Association of Code Enforcement Officers
California Chamber of Commerce
California Hospital Association
California Professional Firefighters Association
California Travel Association
Central City Association of Los Angeles
City of Alhambra
City of Bakersfield
City of Berkeley
City of Buena Park
City of Carlsbad
City of Cathedral City
City of Chino Hills
City of Chula Vista
City of Claremont
City of Coachella
City of Concord
City of Coronado
City of Cotati
City of Del Mar
City of El Cajon
City of Encinitas
City of Escondido

City of Fontana
City of Fountain Valley
City of Garden Grove
City of Half Moon Bay
City of Huntington Beach
City of Imperial Beach
City of Irvine
City of La Mesa
City of Laguna Niguel
City of Lemon Grove
City of Mission Viejo
City of Montclair
City of National City
City of Ontario
City of Palm Desert
City of Palm Springs
City of Paramount
City of Poway
City of Rancho Mirage
City of Rancho Palos Verdes
City of Redwood City
City of Riverside
City of San Diego
City of San Marcos
City of Santa Monica
City of Santa Rosa
City of Santee
City of Solana Beach
City of Upland
City of Vista
Civic Center Community Benefit Districts
Communities Actively Living Independent & Free
County of San Diego
Family & Consumer Advocates for California's Severely Mentally Ill
Family Services Association
Fontana Chamber of Commerce
Fremont Chamber of Commerce
Garden Grove Chamber of Commerce
Golden Gate Restaurant Association
Govern for California

Harbor Association of Industry and Commerce
Hotel Council of San Francisco
Inland Empire Coalition of Mayors
Inland Empire Economic Partnership
Laguna Niguel Chamber of Commerce
Lake Elsinore Valley Chamber of Commerce
League of California Cities
Los Angeles Area Chamber of Commerce
Los Angeles Business Council
Los Angeles County Business Federation, BizFed
Mayor of Anaheim, Harry Sidhu
Mayor of Bakersfield, Karen Goh
Mayor of Fresno, Jerry Dyer
Mayor of Long Beach, Robert Garcia
Mayor of Los Angeles, Eric Garcetti
Mayor of Oakland, Libby Schaaf
Mayor of Riverside, Patricia Lock Dawson
Mayor of Sacramento, Darrell Steinberg
Mayor of San Diego, Todd Gloria
Mayor of San Francisco, London Breed
Mayor of San Jose, Sam Liccardo
Mayor of Santa Ana, Vicente Sarmiento
Mayor of Stockton, Kevin Lincoln
NAMI-CA
Neighborhood Partnership Housing Services, Inc.
North Bay Leadership Council
Oceanside Chamber of Commerce
Orange County Business Council
Orange County Hispanic Chamber of Commerce
Palos Verdes Peninsula Chamber of Commerce
Psychiatric Physicians Alliance of California
Redondo Beach Chamber of Commerce
Sage Leadership Academy
San Diego Regional Chamber of Commerce
San Diego Tourism Authority
San Francisco Chamber of Commerce
San Francisco Partnership
San Francisco Travel Association
San Pedro Chamber of Commerce
Santa Clarita Valley Chamber of Commerce

Santa Rosa Metro Chamber of Commerce
Santee Chamber of Commerce
SF Partnership
South Bay Association of Chambers of Commerce
Steinberg Institute
Tulare Chamber of Commerce
Union Square Alliance
Valley Industry and Commerce Association
West Ventura County Business Alliance
One individual

OPPOSITION: (Verified 8/29/22)

504 Democratic Club, New York
Abolitin Study Group of Psychologists for Social Responsibility
ACLU California Action
Affordable Housing Advocates, San Diego
Alabama Disabilities Advocacy Program
Alameda County Homeless Action Center
American Association of People with Disabilities
American Civil Liberties Union
Anti-Police Terror Project
Arizona Center for Disability Law
Bay Area Legal Aid
Bazelon Center
Black Men Speak, Inc.
Caduceus Justice
Cal Voices
California Advocates for Nursing Home Reform
California Association of Mental Health Peer-Run Organizations
California Behavioral Health Planning Council
California Black Health Network
California Foundation for Independent Living Centers
California Homeless Union Statewide Organizing Council
California Institute of Behavioral Health Solutions
California Pan-Ethnic Health Network
Calloway Holistic Peer Concepts
Caravan4Justice
Care First California
Center for Public Representation
Centro Legal de la Raza

Coalition for Supportive Housing
Coalition on Homelessness
Community Advocates for Just and Moral Governance
Community Legal Aid SoCal
Community Legal Aid Society, Inc., Disabilities Law Program, Delaware
Connecticut Legal Rights Project
Corporation for Supportive Housing
Crip the Vote
Decarcerate Sacramento
Depression and Bipolar Support Alliance – California
Disability Law Center of Alaska
Disability Law Colorado
Disability Rights Advocates
Disability Rights Arkansas
Disability Rights California
Disability Rights Center – New Hampshire
Disability Rights Center of Kansas
Disability Rights Connecticut
Disability Rights Education & Defense Fund
Disability Rights Florida
Disability Rights Idaho
Disability Rights Iowa
Disability Rights Maine
Disability Rights Maryland
Disability Rights Michigan
Disability Rights Mississippi
Disability Rights Montana
Disability Rights Nebraska
Disability Rights New Mexico
Disability Rights New York
Disability Rights North Carolina
Disability Rights Oregon
Disability Rights Pennsylvania
Disability Rights Rhode Island
Disability Rights South Carolina
Disability Rights South Dakota
Disability Rights Texas
Disability Rights Vermont
Disability Rights Washington
Drug Policy Alliance

Elder Law and Disability Rights Center
Ella Baker Center for Human Rights
Escuchen Mi Voz
Funders Together to End Homelessness
Housing and Economic Rights Advocates, Oakland
Housing California
Housing is a Human Right, Orange County
Human Rights Watch
Immigrant Defense Advocates
Indiana Disability Rights
Justice in Aging
Justice2Jobs Coalition Sacramento
JusticeLA
Keep the Promise Coalition, Connecticut
Kentucky Protection & Advocacy
La Defensa
Law Foundation of Silicon Valley
Law Office of Robert Rootenberg
Los Angeles Community Action Network
Love & Justice In The Streets
Mental Health Advocacy Services
Mental Health America
Mental Health America of California
Mental Health Association of San Francisco
Mental Health First
National Asian Pacific American Families Against Substance Abuse
National Association of Social Workers – California Chapter
National Disability Rights Network
National Health Care for the Homeless Council
National Health Law Project
National Homelessness Law Center
National Lawyers Guild, San Francisco Bay Area Chapter
National Union of the Homeless
Native American Disability Law Center, New Mexico
New Life Ministries of Tulare County
North Valley Radical Mental Health
Peers Advocating for Rights and Recovery
People’s Budget Orange County
People’s Homeless Task Force, Orange County
Project Amiga

Psychologists for Social Responsibility
Public Counsel
Public Interest Law Project
Racial and Ethnic Mental Health Disparities Coalition
Rosen Bien Galvan & Grunfeld LLP
Sacramento Homeless Organizing Community
Sacramento Homeless Union
Sacramento LGBT Community Center
Sacramento Loaves & Fishes
Sacramento Regional Coalition to End Homelessness
Safe Black Space
Salinas/Monterey County Homeless Union
San Bernardino Free Them All
San Diego Tenants Union
San Francisco Pretrial Diversion Project
San Francisco Public Defender's Office
Senior & Disability Action
Stanford Sierra Youth & Families
Starting Over, Inc.
Street Watch LA
Stronger Women United
SURJ Sacramento
The Asian Americans with Disabilities Initiative
The Coelho Center for Disability Law, Policy, and Innovation
The Harkin Institute for Public Policy and Citizen Engagement
The Justice Teams Network
The SmithWaters Group
Venice Justice Committee
We Are Not Invisible
Western Center on Law and Poverty
Western Regional Advocacy Project
Over 400 individuals

ARGUMENTS IN SUPPORT: In support of this bill, local governments from San Diego, including the City and County of San Diego County, write:

> The creation of CARE Courts by SB 1338 represents a thoughtful approach to addressing the behavioral health crisis we are witnessing on our streets and getting people connected with the care they need earlier. It appropriately recognizes the continuum of care that this small but highly visible segment of the population with significant mental health disorders deserve. As with local

agencies throughout the State, San Diego's communities are facing a daunting homelessness crisis. However, the unsheltered population is as diverse as the general population, all who come to their housing situation with different backgrounds, upbringings, and traumas. It is imperative that we provide multi-faceted solutions to help the myriad situations our fellow Californians face. Some unsheltered individuals recently lost a job and need quick and focused assistance; some have serious mental health and substance use disorder issues that have developed over many years resulting in an inability to care for themselves. . . .

CARE Court will provide a new and focused civil justice alternative to those struggling with schizophrenia spectrum or psychotic disorders and who lack medical decision-making capacity. The CARE plan envisioned by SB 1338 provides numerous safeguards to ensure personal civil liberties are respected and protected. Distinct from the Lanterman Petris Short (LPS) conservatorship process, this bill requires the County Health and Human Services Agency to establish a cadre of "supporters" who have the obligation to advocate for each person enrolled or potentially enrolled in CARE Court. Further, CARE Court enrollment is time-limited and is intended to last only one year, although it can be extended for one additional year. During the enrolled period, CARE plans can provide the needed time and intensive care to assist those more seriously ill on our streets.

ARGUMENTS IN OPPOSITION: A coalition of over 40 advocacy organizations, including Disability Rights California, writes in opposition:

CARE Court is antithetical to recovery principles, which are based on self-determination and self-direction. The CARE Court proposal is based on stigma and stereotypes of people living with mental health disabilities and experiencing homelessness.

While the organizations submitting this letter agree that State resources must be urgently allocated towards addressing homelessness, incarceration, hospitalization, conservatorship, and premature death of Californians living with severe mental illness, CARE Court is the wrong framework. The right framework allows people with disabilities to retain autonomy over their own lives by providing them with meaningful and reliable access to affordable, accessible, integrated housing combined with voluntary services. . . .

Instead of allocating vast sums of money towards establishing an unproven system of court-ordered treatment that does not guarantee housing, the state

should expend its resources on a proven solution to homelessness for people living with mental health disabilities: guaranteed housing with voluntary services. Given that housing is proven to reduce utilization of emergency services and contacts with the criminal legal system, a team of UC Irvine researchers concluded that it is "fiscally irresponsible, as well as inhumane" not to provide permanent housing for Californians experiencing homelessness. . . .

Despite SB 1338's use of the terms "recovery" and "empowerment," CARE Court sets up a system of coerced, involuntary outpatient civil commitment that deprives people with mental health disabilities of the right to make self-determined decisions about their own lives. Evidence does not support the conclusion that involuntary outpatient treatment is more effective than intensive voluntary outpatient treatment provided in accordance with evidence-based practices. Conversely, evidence shows that involuntary, coercive treatment is harmful. . . .

CARE Court is not the appropriate tool for providing a path to wellness for Californians living with mental health disabilities who face homelessness, incarceration, hospitalization, conservatorship, and premature death. Instead, California should invest in evidence-based practices that are proven to work and that will actually empower people living with mental health disabilities on their paths to recovery and allow them to retain full autonomy over their lives without the intrusion of a court.

Prepared by: Allison Meredith / JUD. / (916) 651-4113
8/30/22 23:14:04

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

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

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 ******

SENATE RULES COMMITTEE SB 1373
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SB 1373
Author: Kamlager (D), et al.
Amended: 8/25/22
Vote: 27 - Urgency

SENATE GOVERNANCE & FIN. COMMITTEE: 4-0, 5/4/22
AYES: Caballero, Nielsen, Durazo, Wiener
NO VOTE RECORDED: Hertzberg

SENATE FLOOR: 31-0, 5/23/22
AYES: Allen, Atkins, Becker, Bradford, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Archuleta, Bates, Borgeas, Caballero, Dahle, Hertzberg, Melendez, Nielsen, Umberg

ASSEMBLY FLOOR: 61-0, 8/29/22 - See last page for vote

SUBJECT: Surplus land disposal

SOURCE: City of Los Angeles

DIGEST: This bill extends by two years (until December 31, 2024) the deadlines in the Surplus Land Act to complete disposition of a property subject to an exclusive negotiating agreement for a charter city with a population of over two million people.

Assembly Amendments limit the bill's application to the City of Los Angeles and make other technical changes.

ANALYSIS:

Existing law:

1) Requires a local agency that wants to dispose of property to follow specified procedures under the Surplus Land Act (SLA).

2) Defines "surplus land" as land owned by any local agency that is determined to be no longer necessary for the agency's use.

3) Requires a local agency that is disposing of surplus land to notify certain public entities and housing sponsors that surplus land is available for one of the following purposes:

   a) Low- and moderate-income housing;

   b) Park and recreation, and open space;

   c) School facilities; or,

   d) Infill opportunity zones or transit village plans.

4) Requires that, if another agency or housing sponsor wants to buy or lease the surplus land for one of these purposes, it must inform the disposing agency of its interest within 60 days, and if multiple entities want to purchase the land, the housing sponsor that proposes to provide the greatest level of affordable housing gets priority. The disposing agency and the interested entity have an additional 90 days to negotiate a mutually satisfactory price and terms in good faith. If they can't agree, the agency that owns the surplus land can dispose of the land on the private market.

5) 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.

6) Designates certain categories of surplus land as "exempt surplus land," which does not have to meet the requirements of the SLA.

7) Allows property to be disposed of under the SLA as the law read on December 31, 2019, if disposition is completed before December 31, 2022, for certain types of properties, specifically:

   a) A local agency had entered into an exclusive negotiating agreement (ENA) with a developer prior by September 30, 2019; or

b) A local agency entered into an ENA for the property by December 31, 2020, if the land is held in a Community Redevelopment Property Trust fund or has been designated in a Long Range Property Management Plan (LRPMP) for sale or to be retained for future development.

This bill:

1) Extends by two years (until December 31, 2024) the deadline to complete disposition of a property subject to an ENA under the existing grandfathering provisions in the SLA for a charter city with a population of over two million people.

2) Contains an urgency clause.

Background

The LRPMP for the City of Los Angeles's former redevelopment agency (RDA) identifies 10 properties that the City of Los Angeles had option agreements to purchase from the successor agency to the RDA for future development. To date, the City has purchased and disposed of seven of these sites. The three remaining sites included:

- Bunker Hill Parcel Y-1, which is a 2¼-acre site in Downtown Los Angeles that was designated for mixed-use high-rise development in the LRPMP;

- Dr. Mary McLeod Bethune Regional Branch Library (Bethune Library), which is a 3/4-acre site on the Vermont Corridor in South Los Angeles designated for housing in the LRPMP; and

- Marlton Square, which is a 5-acre site located on the Crenshaw Corridor in Baldwin Hills designated for commercial retail in the LRPMP.

The City of Los Angeles has entered into ENAs with developers for both the Bunker Hill and Bethune Library sites, and the city is negotiating development disposition agreements for those sites. Specifically, the city entered into an ENA with a development group for the "Angels Landing" project in March 2018. The project includes a pair of high-rise buildings encompassing 1.3 million square feet of floor area that includes:

- 432 condominiums and rental apartments. Three percent of the units onsite would percent affordable to moderate-income housing onsite, and an additional 65 units (15 percent of project total) affordable to lower-income households would be built offsite in nearby areas;

- Two luxury hotels with a total of 515 hotel rooms;
- An integrated Metro Transit Station; and
- Additional commercial, restaurant, and retail space.

The project also has a project labor agreement and a labor peace agreement with construction and hotel worker unions. A study commissioned by the development group estimates that 8,300 new jobs will be created during construction and over 900 permanent and semi-permanent jobs from the operations after construction.

Additionally, in April 2019, the City of Los Angeles entered into an ENA with Bethune Hotel Venture, LLC to acquire the Bethune Library site to develop a 167-room Courtyard by Marriott Hotels & Resorts, with 7,000 square feet ground floor retail and a media room.

Finally, the Department of Housing and Community Development has determined that Marlton Square is exempt from the SLA because it was purchased using federal funds that require the site to be dedicated to economic development purposes.

The City of Los Angeles wants the Legislature to grant additional time to complete disposition of its remaining properties in the LRPMP under the old SLA rules.

Comments

1) *Purpose of this bill*. According to the author, "The impetus for SB 1373 came from discussions with various community stakeholders, including representatives from the City of Los Angeles. I learned that COVID had seriously impacted a few key opportunities for redevelopment, recovery and economic opportunity in my district. The City of Los Angeles, in partnership with the Redevelopment Successor Agency, has been working closely to secure investments from private partners to develop former Community Redevelopment Agency properties, and while working hard to make progress despite the challenges of the past two years, quickly found themselves up against deadlines in the State Lands Act. After reviewing these projects further, and better understanding the potential job creation, affordable housing and investment opportunities in underserved communities, as well as hearing from key stakeholders in the labor and construction trades, I feel that it is appropriate for the State to take action to try to provide additional time to the deadlines created by the current State Lands Act requirements. In these unprecedented times, we must do all we can to support efforts to lift up communities and

stakeholders hardest hit by the pandemic. SB 1373 provides the City of Los Angeles and its partners the opportunity to follow through on projects that will have a transformational impact on their communities and will help jump start economic investment, development and jobs creation."

2) *Housing uber alles*. Recent amendments to the SLA (AB 1486, Ting, Chapter 664, Statutes of 2019) were intended to increase the supply of affordable housing in the state by giving affordable housing developers the first right of refusal on surplus local properties and by requiring 15 percent of the units in any residential projects built on sites that were disposed of as surplus to be affordable to lower-income households (under 80 percent of area median income). SB 1373 extends the time to dispose of properties under the old SLA rules for two properties in the City of Los Angeles. Applying the post-2019 SLA requirements, as would likely occur without SB 1373, would require the city to offer the sites to any interested affordable housing developers and would mandate that any site that includes housing have at least 15 percent of the units on-site be affordable to lower-income households. Accordingly, SB 1373's extension of exemptions from the SLA may reduce the amount of housing built for lower-income households.

3) *Goose and gander*. The increased requirements of the SLA, as amended by AB 1486, have stymied the ability of local governments to direct the use of their property for economic development purposes. SB 1373 loosens the SLA's stranglehold on economic development but only for the City of Los Angeles. Yet other local agencies throughout the state may have experienced similar delays due to the COVID-19 pandemic in disposing of properties subject to ENAs. Those smaller jurisdictions won't benefit from SB 1373. Should all local agencies be able to use SB 1373, or should the prohibition on economic development in the Surplus Land Act be revisited more broadly so that such exemptions become less necessary?

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

SUPPORT: (Verified 8/29/22)

City of Los Angeles (source)
Central City Association of Los Angeles
Greater Los Angeles African American Chamber of Commerce
Unite Here Local 11

OPPOSITION: (Verified 8/29/22)

Physicians for Social Responsibility - Los Angeles
Public Counsel
Sandra Mcneill Consulting
Strategic Actions for A Just Economy
United Neighbors in Defense Against Displacement

ASSEMBLY FLOOR: 61-0, 8/29/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Cunningham, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, 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, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Chen, Choi, Megan Dahle, Daly, Davies, Flora, Fong, Gallagher, Irwin, Kiley, Lackey, Mathis, Mayes, Nguyen, Patterson, Seyarto, Smith, Voepel

Prepared by: Anton Favorini-Csorba / GOV. & F. / (916) 651-4119
8/29/22 23:50:05

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

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UNFINISHED BUSINESS

Bill No: SB 1387
Author: Limón (D)
Amended: 8/25/22
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 10-3, 4/5/22
AYES: Dodd, Allen, Archuleta, Becker, Glazer, Hueso, Jones, Kamlager, Portantino, Rubio
NOES: Nielsen, Borgeas, Melendez
NO VOTE RECORDED: Bradford, Wilk

SENATE JUDICIARY COMMITTEE: 10-0, 4/19/22
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas

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

SENATE FLOOR: 31-2, 5/24/22
AYES: Allen, Atkins, Bates, Becker, Bradford, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NOES: Borgeas, Melendez
NO VOTE RECORDED: Archuleta, Caballero, Dahle, Grove, Hertzberg, Nielsen, Ochoa Bogh

ASSEMBLY FLOOR: 64-9, 8/30/22 - See last page for vote

SUBJECT: Gubernatorial appointments: report

SOURCE: Author

DIGEST: This bill requires the office of the Governor to maintain on its internet website a list of every state board and commission, their membership list, the stated purpose, duties, meeting frequency, and internet website of every state board and commission, and any vacancies in the membership of each state board and commission.

Assembly Amendments delete the requirement that the office of the Governor convene a working group to discuss and make recommendations on the most effective way to ensure the state's leadership on boards and commissions reflects the diversity of the state, as specified.

ANALYSIS:

Existing law:

1) Requires the Governor to appoint every office whose mode of appointment is not prescribed by law.

2) Requires that nominations made by the Governor to the Senate be made in writing, designating the residence of the nominee and the office for which he is nominated.

3) Establishes various boards and commissions within state government.

4) States that it is the policy of the State of California that the composition of these state boards and commissions broadly reflect the general public, including ethnic minorities and women.

5) Specifies that the Governor and other appointing authorities are responsible for nominating individuals to boards and commissions of different backgrounds, abilities, interests, and opinions. Existing law states, that it is not the intent of the Legislature that formulas or specific ratios be utilized in complying with this article.

This bill:

1) Requires, commencing December 1, 2024, the office of the Governor to maintain on its internet website a list of every state board and commission, their membership list, the stated purpose, duties, meeting frequency, and internet website of every state board and commission, and any vacancies in the membership of each state board and commission.

2) Requires, on or before January 31, 2025, and every year thereafter, the office of the Governor to create and publish on its internet website a report that contains aggregate demographic information, to the extent available, of appointments by the office of the Governor from January 1 to December 31, inclusive of the previous year.

3) Defines "demographic information" to mean the voluntarily self-reported age, ethnicity, gender, region, and party affiliation of the appointed individual.

4) Provides, that commencing January 31, 2026, and with respect to any subsequent report, "demographic information" to mean the voluntary self-reported age, ethnicity, gender, gender identify disability status, race, region, party affiliation, veteran status, and sexual orientation of the appointed individual.

Comments

Purpose of the Bill. According to the author's office, "to ensure California's leadership reflects its greater population, the collection of gubernatorial appointee demographic data is critical step to achieving gender, racial, and ethnic equity on boards and commissions. Increasing the diversity of California's board and commission members will ensure we reflect the rich diversity of California's population, creating a stronger state, and more equitable communities."

California's Demographic Data. With a population of roughly 40 million people, California is the most populous state in the United States with no race or ethnic group constituting a majority of California's population. According to the Public Institute Policy of California 39% of state residents are Latino, 36% are white, 15% are Asian or Pacific Islander, 6% are African American, fewer than 1% are Native American or Alaska Natives, and 3% are multiracial or other. In terms of gender, California has a higher number of women, 50.2% compared to men, 49.2%.

According to the Williams Institute at UCLA, roughly 5.3%, or a little over two million people in California are a member of the LGBTQ+ community. In addition, the Centers for Disease Control and Prevention predicts that roughly 23% of California's adult population has some kind of disability. California is also home to 1.8 million veterans.

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

According to the Assembly Appropriations Committee, this bill has likely minor and absorbable costs to the Governor's office to create a report and public demographic information about gubernatorial appointees on each state board and commission.

SUPPORT: (Verified 8/30/22)

California Board of Accountancy
Campaign for College Opportunity
Hispanas Organized for Political Equality

OPPOSITION: (Verified 8/30/22)

None received

ARGUMENTS IN SUPPORT: According to the Campaign for College Opportunity, "the bill establishes long overdue guidance ,transparency, and accountability in the gubernatorial appointment review process. By establishing transparency and providing a working group to create recommendations to better address equity in gubernatorial appointments, SB 1387 creates the opportunity to have more representative state leadership."

ASSEMBLY FLOOR: 64-9, 8/30/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Choi, Cooley, Cooper, Daly, Davies, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mathis, 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, Stone, Ting, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Cunningham, Fong, Gallagher, Kiley, Lackey, Smith, Voepel

NO VOTE RECORDED: Megan Dahle, Flora, Irwin, Mayes, Patterson, Seyarto, Valladares

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
8/30/22 23:14:01

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

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UNFINISHED BUSINESS

Bill No: SB 1421
Author: Jones (R)
Amended: 8/24/22
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 5-0, 4/5/22
AYES: Hurtado, Jones, Cortese, Kamlager, Pan

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: Not available

SUBJECT: California Interagency Council on Homelessness

SOURCE: Author

DIGEST: This bill adds a current or formerly homeless individual with a developmental disability to the California Interagency Council on Homelessness' (Cal ICH) advisory committee.

Assembly Amendments strike prior changes made to Welfare and Institutions Code Section 8257 and rewrite it to reflect changes made to code by the 2022 Housing Budget Trailer Bill.

ANALYSIS:

Existing law:

1) Defines, in federal statute, the word "homeless" for the purpose of housing assistance, to mean an individual or family who lacks a fixed, regular, and adequate nighttime residence, such as:

   a) 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;

   b) A supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or

   c) Exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution. *(42 CFR 91.5)*

2) Defines, in federal statute, the term "homeless individual with a disability" to mean an individual who is homeless and has a disability, as specified, that is:

   a) Expected to be long-continuing or of indefinite duration; substantially impedes the individual's ability to live independently; could be improved by the provision of more suitable housing conditions; and, is a physical, mental, or emotional impairment, including an impairment caused by alcohol or drug abuse, post- traumatic stress disorder, or brain injury;

   b) A developmental disability, as defined; or

   c) The disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agency for acquired immunodeficiency syndrome. *(42 U.S.C. 11360(10))*

3) Defines a "developmental disability" to mean a disability that originates before an individual attains 18 years of age which continues, or can be expected to continue, indefinitely and constitutes a substantial disability for that individual, including intellectual disability, cerebral palsy, epilepsy, and autism and related conditions, but excluding other handicapping conditions that are solely physical in nature. *(WIC 4512(a))*

4) Establishes the Cal ICH to oversee and coordinate the implementation of Housing First guidelines and regulations in California, and to identify resources and services that can be accessed to prevent and end homelessness in California. *(WIC 8255 et. seq.)*

5) Sets the goals for the Cal ICH including, but not limited to, identification of resources and services to prevent and end homelessness; creating partnerships among local, state, federal entities to arrive at strategies to end homeless; coordinating existing homelessness funding; making policy and procedural recommendation to the Legislature; and, creating a Homeless Data Integration System, as provided. (WIC 8257(b))

6) Requires the Cal ICH meet at least twice per year with an advisory committee that is appointed by the Cal ICH co-chairs, as provided, which include:

   a) A survivor of gender-based violence who formerly experienced homelessness;

   b) Representatives of local agencies or organizations that participate in the U.S. Department of Housing and Urban Development's (HUD) Continuum of Care (CoC) Program;

   c) Stakeholders with expertise in solutions to homelessness and best practices from other states;

   d) Representatives of committees on African Americans, youth, and survivors of gender-based violence;

   e) A current or formerly homeless person who lives in California;

   f) A current or formerly homeless youth who lives in California; and

   g) Allows the advisory committee to designate one member to participate in every quarterly council meeting to provide a report to the council on their activities. (WIC 8257(d))

This bill:

1) Requires that the Cal ICH advisory committee appointees include a current or formerly homeless individual with a developmental disability.

2) Makes technical and conforming changes.

Background

California Homelessness Data. Since 2016, homelessness in America, and particularly in California, has been growing at an increasing rate. Homelessness has been correlated with a number of negative effects, including high rates of chronic disease and acute illness, a broad range of mental health and substance use issues, greater exposure to violence, malnutrition, extreme weather, and criminal charges. The health, personal, and economic challenges that chronically homeless individuals and families face and the lack of effective, coordinated services to address these problems often lead to a cycle of housing instability and health deterioration. Persistent homelessness impedes access to needed health and employment services. Additionally, the conditions of homelessness often make it more difficult to exit homelessness, by creating barriers to the resources necessary to obtain income through training, education, and employment.

Each January, HUD has local community CoCs conduct a Point in Time (PIT) count of people experiencing homelessness, and includes people experiencing homelessness who are "sheltered" – living in temporary shelters – and those who are "unsheltered," or living out in the open or in places not designated for, or ordinarily used as, a regular sleeping accommodation for people (i.e. the streets, vehicles, or parks). The PIT count is required by HUD as a condition of receiving federal funding. In 2020, California accounted for 51 percent of all people experiencing unsheltered homelessness in the nation (113,660 people), nearly nine times the number of unsheltered people in the state with the next highest number, Texas (13,212). The PIT count also showed:

- Homelessness among California families with children increased by seven percent or 1,537 more individuals.

- In five major city CoCs, more than 80 percent of homeless individuals were unsheltered: San Jose (87 percent), Los Angeles (84 percent), Fresno (84 percent), Oakland (82 percent), and Long Beach (81 percent).

Due to the Covid-19 pandemic's disruptions, the January 2021 PIT count efforts were refocused to survey people experiencing sheltered homelessness and a report focused on this was released in February 2022. California's 2021 PIT count of total sheltered homeless was 57,468, and of those counted, 17,690 were women. HUD has cautioned that the 2021 data may not be fully represent the number of people experiencing sheltered homeless due to the Covid-19 pandemic limitations.

Stakeholders typically feel the annual PIT count is limited, because while these numbers provide a snapshot of the state's homeless population during a single

night, they likely underestimate the scope of the crisis because: (1) the HUD PIT count only measures the homeless population on one day of the year, and (2) it does not capture everyone experiencing homelessness, as some do not wish to be counted, while others cannot be counted because their location is not known to the counters. These limitations are further highlighted by the Covid-19 pandemic caused limitations on data collection efforts and resulting focus on sheltered homelessness in 2021.

Disabilities and Chronic Homelessness. Under federal law, people experiencing chronic homelessness is partially defined to include, "people with disabilities who also experience extended or repeated episodes of homelessness". A 2017 United States Interagency Council on Homelessness (USICH) study reviewed data from the 2017 HUD PIT data count and found: (1) people with disabilities were disproportionately represented among all people experiencing homelessness, (2) estimates suggested that on any given day about 24 percent of individuals experiencing homelessness (86,962 of 369,081 individuals) were people with disabilities who met the federal definition of experiencing chronic homelessness, (3) estimates suggest that about 10-15 percent of all individuals who enter homelessness will experience chronic homelessness, and, that (4) most of these individuals were living in major cities (57 percent) or smaller cities or counties (33 percent) rather than in rural areas.

Additionally, the USICH determined that more than six percent of adults living in permanent supportive housing (PSH) in 2016 had a developmental disability. PSH is an evidence-based housing intervention that combines on-going rental assistance with supportive services such as health and mental health care for chronically homeless households. PSH, implemented through a Housing First approach, has been shown to help people with disabilities permanently stay out of homelessness, improve their health conditions, and significantly reduce their use of costly crisis services.

California Interagency Council on Homelessness. AB 1220 (Rivas, L., Chapter 398, Statutes of 2021) renamed the Homeless Coordinating and Financing Council (HCFC) to Cal ICH, named the secretaries of the Business, Consumer Services, and Housing Agency (BCSH) and the California Health and Human Services Agency (Cal HHS) as co-chairs of the council, and changed the membership composition from one that included a mix of state and local agencies, persons who previously experienced homelessness, and homeless advocacy groups to one composed of state departments' and offices' directorate, including the Departments of Rehabilitation, Aging, Social Services, and the state's Medicaid Director.

AB 1220 also created an advisory committee to provide guidance to, and meet at least twice a year with, the Cal ICH. The composition of the advisory committee must include the following: (1) a survivor of gender-based violence who formerly experienced homelessness; (2) representatives of local agencies or organizations that participate in HUD's Continuum of Care Program; (3) stakeholders with expertise in solutions to homelessness and best practices from other states; (4) representatives of committees on African Americans, youth, and survivors of gender-based violence; (5) a current or formerly homeless person who lives in California; and, (6) a current or formerly homeless youth who lives in California. The advisory committee must also designate one of its members to participate in the quarterly council meetings and provide a report to Cal ICH on their activities.

Cal ICH is tasked to continue the work it began as HCFC, which was created by SB 1380 (Mitchell, Chapter 847, Statutes of 2016), such as coordinating the state's response to homelessness, and creating partnerships among state agencies and departments, local government agencies, nonprofits, and federal agencies, among others. Cal ICH is also responsible for administering and distributing funding associated with the Homeless Housing Assistance and Prevention Program, through which millions of dollars allocated through the state budget process are provided to local governments and CoCs to address immediate homelessness challenges. Additionally, SB 918 (Wiener, Chapter 841, Statutes of 2018) required Cal ICH to set and measure progress toward goals to prevent and end homelessness among youth in California, as provided.

This bill requires Cal ICH to add a currently or formerly homeless person with a developmental disability to the advisory committee.

Related/Prior Legislation

AB 1220 (Luz Rivas, Chapter 398, Statutes of 2021) renamed HCFC to the Cal ICH, named the Secretary of Cal HHS as co-chair, reconstituted the Cal ICH membership, required the ICH to meet at least twice yearly with an advisory committee, among other things, and as provided.

AB 1845 (Luz Rivas, 2020) would have created the Governor's Office to End Homelessness under the Direction of the Secretary of Homelessness and would have moved the HCFC from the BCSH Agency into the Governor's Office to End Homelessness. This bill was vetoed by the Governor Newsom.

SB 918 (Wiener, Chapter 841, Statutes of 2018) required Cal ICH to set and measure progress towards goals to prevent and end homelessness among youth in California, as provided.

SB 850 (Committee on Budget and Fiscal Review, Chapter 48, Statutes of 2018) provided funding for homelessness initiatives, permitted the Governor to appoint up to 17 members to HCFC, including the Secretary BCSH or designee, to serve as chair, a representative from the Department of Transportation and a formerly homeless youth to serve on the Council, as provided.

SB 1380 (Mitchell, Chapter 847, Statutes of 2016) created the HCFC to coordinate the state's response to homelessness, as provided.

Comments

According to the author, "in order to effectively address the many challenges associated with assisting persons experiencing homelessness a wide variety of perspectives must be sought, including the perspective of a person with a developmental disability who has experienced or is currently experiencing homelessness. Currently, neither the Cal ICH nor its associated advisory committee are required to include a member with this important perspective."

The author goes on to state, "SB 1421 adds a current or formerly homeless individual with a developmental disability to the Cal ICH advisory committee in order to provide the Cal ICH with readily available access to this much needed perspective."

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

According to the Assembly Appropriations Committee, Cal ICH anticipates minor and absorbable costs.

SUPPORT: (Verified 8/30/22)

Association of Regional Center Agencies
California Catholic Conference
California Council of Community Behavioral Health Agencies
Disability Voices United

OPPOSITION: (Verified 8/30/22)

None received

Prepared by: Bridgett Hankerson / HUMAN S. / (916) 651-1524
8/30/22 23:14:03

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

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UNFINISHED BUSINESS

Bill No: SB 1433
Author: Roth (D), et al.
Amended: 8/24/22
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 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: 36-1, 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, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NOES: Nielsen
NO VOTE RECORDED: Archuleta, Caballero, Hertzberg

ASSEMBLY FLOOR: 77-0, 8/29/22 - See last page for vote

SUBJECT: Private postsecondary education: California Private Postsecondary Education Act of 2009

SOURCE: Author

DIGEST: This bill extends the sunset date for the Bureau for Private Postsecondary Education (Bureau or BPPE) and California Private Postsecondary Education Act of 2009 (Act) until January 1, 2027 and makes additional technical

changes, statutory improvements, and policy reforms in response to issues raised during the BPPE's sunset review oversight process.

Assembly Amendments extend BPPE operations and the Act for four years and add various policy reforms and updates to the Act including authority for an out-of-state public institution to be regulated by BPPE; specifying what constitutes physical presence; clarifying actions for approved institutions that lose accreditation and for degree granting institutions seeking accreditation; specifying certain prohibited practices; and providing for enforcement enhancements.

ANALYSIS: Existing law establishes the Act until January 1, 2023, and requires the BPPE to, among other things, review, investigate and approve private postsecondary institutions, programs and courses of instruction pursuant to the Act and authorizes BPPE to take formal actions against an institution/school to ensure compliance with the Act and even seek closure of an institution/school if determined necessary. The Act requires unaccredited degree granting institutions to be accredited by an accrediting agency recognized by the United States Department of Education. The Act also provides for specified disclosures and enrollment agreements for students, requirements for cancellations, withdrawals and refunds, and that the BPPE shall administer the Student Tuition Recovery Fund (STRF) to provide refunds to students affected by the possible closure of an institution/school. (Education Code § 94800 *et seq*.)

This bill:

1) Extends BPPE operations and the Act until January 1, 2027.

2) Authorizes an out-of-state public institution of higher education, as specified, that maintains a physical presence in this state to apply for an approval to operate from the BPPE. Specifies that a public institution of higher education approved to operate in this state is subject to the provisions of the Act and related regulations in the same manner and to the same extent as if it was a private postsecondary educational institution, as defined.

3) Provides an exemption from requirements for out-of-state institutions that provide distance education to California students to register with BPPE if the institution does not award degrees and solely provides educational programs for total charges of $2,500 or less when no part of the total charges is paid from state or federal student financial aid programs.

4) Authorizes the BPPE to establish thresholds of California-based activity that constitute limited physical presence through regulation and specifies that an institution is considered to have a physical presence in the state if it offers instruction or core academic support services from a physical location owned, operated, or rented by or on behalf of the institution in California.

5) Requires institutions that are approved by means of accreditation and accredited by an agency that loses recognition by the United States Department of Education (USDE), to take certain steps to maintain BPPE approval.

6) Authorizes the BPPE to deny an application for an approval to operate for institutions that would be owned by, have person in control, or employ managers that had knowledge of, should have known, or knowingly participated in any conduct that was the cause for revocation or unmitigated discipline at another institution. Specifies that a change in ownership or person in control is considered a substantive change and requires prior authorization from the BPPE.

7) Adds certain acts by an institution to a list of prohibited activities in the Act.

8) Provides that an institution offering an educational program requiring approval from another licensing agency in California, that subsequently loses that approval, shall have their approval to operate the program automatically suspended by the BPPE.

9) Adds information about the Office of Student Assistance and Relief to the list of information contained in a school catalog that must be provided to a prospective student prior to enrollment.

10) Provides that an institution's approval to operate is automatically terminated on the date of its closure or when its exemption has been verified by the BPPE. If an institution does not identify a date of closure one will be selected by BPPE. Prohibits a terminated license from being reinstated.

11) Updates definitions and make additional technical, clarifying, and conforming changes.

Background

Oversight Hearings and Sunset Review of Licensing Boards and Programs. Beginning in 2020, the Senate Business and Professions Committee and the Assembly Business and Professions Committee (Committees) began their comprehensive sunset review oversight of 16 regulatory entities including BPPE. The Committees conducted several oversight hearings in November 2020 and March/April 2021, including a sunset review oversight hearing to discuss BPPE held with the Senate Education and Assembly Higher Education Committees. SB 802 (Roth, Chapter 552, Statutes of 2021) made a number of changes to the Act and extended BPPE operations for one year in order to allow for continued comprehensive discussion about BPPE operations and opportunities for student success. This measure builds on the efforts undertaken in 2021 and the changes contained in SB 802 and is intended to be the vehicle for additional changes to the Act stemming from sunset review oversight work throughout 2021 and 2022.

Background on BPPE. BPPE and the Act was established by Assembly Bill 48 (Portantino, Chapter 310, Statutes of 2009) after several failed legislative attempts to remedy the structural challenges of the former Bureau for Private Postsecondary and Vocational Education. AB 48 took effect January 1, 2010, and provided the BPPE responsibility for oversight of private postsecondary educational institutions operating with a physical presence in California. While the Legislature has amended the Act several times since the initial passage of AB 48, it has consistently directed BPPE to make protection of the public the highest priority in performing duties and exercising powers. Today, the Act expresses Legislative intent that BPPE take certain steps aimed at student protection. Within BPPE exists the Office of Student Assistance and Relief (OSAR), established by SB 1192 (Hill, Chapter 593, Statutes of 2016) which exists to advance the rights of students at private postsecondary educational institutions and assist students who have suffered economic loss due to unlawful activities or the closure of an institution.

Review of the BPPE. The following are some of the issues pertaining to BPPE that were raised during the sunset review process along with background information concerning these particular issues.

1) *Issue 17: Continued Regulation by BPPE.* Private postsecondary institutions play a role in ensuring access to higher educational opportunities for California's students. The landscape of schools regulated by the Bureau has evolved significantly in recent decades. These institutions receive significant public funds; under federal law, up to 90% of revenues can come from the Title IV financial aid program. High-profile state and federal investigations have

revealed deceptive and illegal practices by some institutions within the sector. As the Committees evaluate the Bureau's performance and determine future actions, several fundamental policy questions should be addressed: What is the state's interest in regulating private and for-profit colleges? Does the state have an additional interest/role in oversight of institutions receiving federal funding? Is the Bureau properly equipped to meet the state's goals for oversight and consumer protection? *This bill extends the BPPE and Act for four years.*

2) *Issue 5: Approval by Means of Accreditation.* BPPE has found that institutions approved by means of accreditation often have compliance issues related to the catalog, enrollment agreement, website requirements, financial responsibility, and educational quality, despite the oversight of the accrediting agencies in tandem with that of the BPPE. *This bill would allow the BPPE to address situations where accrediting agencies lose federal recognition by the United States Department of Education, address situations where institutions lose accreditation by a recognized agency, automatically suspend approval of programs that lose approval of required licensing agencies, and terminate approvals to operate upon institutional closure and/or verification of exemption.*

3) *Issue 7: Distance Education and Out-of-State Public and Nonprofit Institutions.* The BPPE has traditionally regulated only institutions with a "physical presence" in California. As a growing number of public and private institutions organized or incorporated outside California serve California students through online and hybrid instruction, the need for Bureau oversight has increased. The Legislature has expanded some areas of oversight, providing a registration process for out-of-state for-profit institutions and requiring their participation in the STRF. Public and non-profit institutions, however, remain outside of BPPE's purview – and increasingly, public institutions are adopting methods of program delivery modeled after for-profit institutions. Still, it has been challenging for BPPE to define a line of when an institution has a physical presence, and when it does not. The Bureau has struggled with understanding and applying the intent of the legislation in determining whether an institution has a physical presence, under certain circumstances, since the statute does not define physical presence. *This bill stipulates that an institution is considered to have a physical presence in California if it offers instruction or core academic support services from a physical location owned, operated, or rented by or on behalf of the institution in California. This bill also authorizes the BPPE to establish through regulation thresholds of California-based activity that constitute limited physical presence, with those institutions subject to registration requirements defined through regulation, and minimal levels of*

California-based activity that do not require institutional approval by nor registration with the BPPE. This bill also provides a process for out-of-state public institutions to apply for an approval to operate from the BPPE, and would be subject to the provisions of, and the regulations adopted pursuant to, the Act in the same manner and to the same extent as if it was a private postsecondary educational institution, including the provisions related to fees, annual reports, compliance inspections, and the STRF. This bill also clarifies and focuses registration requirements for out-of-state institutions.

4) *Issue: California Law does not align with Federal Law Regarding Loss of Accrediting Agency Recognition.* California law provides accredited institutions a streamlined path for obtaining approval to operate by means of their accreditation and allows them to offer degree programs. However, unlike federal law, California law does not provide institutions with a grace period when their accrediting agencies lose federal recognition. A grace period would allow the institution to help students complete their programs and also apply for new approvals. California law further does not clearly articulate a path for institutions in this predicament to regain full approval to operate once accreditation has been lost. This creates confusion with the potential to lead to sudden and devastating impacts for both students and institutions faced with this situation. *This bill requires institutions that are approved by means of accreditation and accredited by an agency that loses recognition by the United States Department of Education, to submit to the BPPE an application, as specified, for approval to operate an institution unaccredited within six months of the agency's loss of recognition. This bill specifies that if the institution fails to submit the required application and accreditation plan within six months of its accreditor's loss of recognition, the institution will lose its approval to operate. This bill requires the BPPE to review the submitted application and accreditation plan and issue the institution a provisional approval to operate degree programs within 18 months of the accreditor's loss of recognition or deny the application, at which time the institution loses its approval to operate. This bill prohibits an institution from seeking BPPE approval for additional degree programs until the institution regains accreditation.*

5) *Issue: Incomplete Requirements for Institutions to Disclose Government Investigations.* Current law requires that BPPE-approved institutions report to the BPPE when they are under investigation by certain government entities. However, this reporting requirement excludes some governmental agencies and oversight entities the BPPE interacts with regularly, including state agencies and city and county district attorney's offices that are conducting criminal

investigations and/or pursuing criminal charges. *This bill requires institutions to notify the BPPE regarding investigations from any government agency.*

6) *Issue: Gaps in Prohibited Business Practices.* Through its role in investigating complaints filed by private postsecondary education students, the BPPE has encountered situations in which students are being harmed by institutional conduct that is generally prohibited by California law outside of the Act. However, the BPPE has limited ability to independently discipline institutions for these same violations. Examples include situations when an institution misrepresents itself to the public, gathers personal information from prospective students under false pretexts, or transcripts are withheld due to debt owed. *This bill expands the prohibited business practices in the Act for which the BPPE is appropriately positioned to address, to include acting in any manner to commit fraud against or make an untrue or misleading statement to a student or prospective student under the institution's authority or the pretense or appearance of the institution's authority. This bill also specified that the maximum fine for unlicensed activity ($100,000) is in addition to the fines for other violations and any refunds.*

7) *Issue: Inability to Acknowledge Individual Responsibility in the Context of Institutional Licensees*. Unlike other boards and bureaus, the BPPE licenses, oversees, and disciplines institutions and has very limited ability to hold accountable the individuals who own, control, or manage institutions violate the Act or regulations adopted pursuant to it. *This bill authorizes the BPPE to deny an application for an approval to operate for institutions that would be owned by, have person in control, or employ managers that had knowledge of, should have known, or knowingly participated in any conduct that was the cause for revocation or unmitigated discipline at another institution. This bill also prohibits an institution that is pursuing accreditation from making a change in ownership, change in control, or change in business organization form until the institution obtains full accreditation.*

Comments

A coalition of institutions which provide training in psychoanalysis support this bill if it is amended to clarify the definition of continuing education and create a new exemption specific to psychoanalytic institutes. They write that "These institutes offer specialized education to licensed, working professionals who voluntarily enroll in these programs to enhance their existing skills and knowledge. These educational programs, as set forth in the current statutory framework, do not necessitate stringent and inflexible oversight from the BPPE."

Ember Education, San Joaquin Valley College, and Carrington College also support this bill if it is amended, expressing concerns about what may constitute fraud in terms of making misleading statements and write that the prohibition on non disclosure agreements is "overly broad and would have an unintended chilling effect on the effective, timely and mutually beneficial settlement of student or employee disputes that are wholly unrelated to the legislative intent of student consumer protection."

The California Association of Private Postsecondary Schools (CAPPS) supports this bill if it is amended. CAPPS requests changes in the language authorizing visiting committees. CAPPS is concerned with language that prohibits an institution pursuing accreditation from making certain changes until the institution obtains full accreditation. CAPPS questions why BPPE would be authorized to promulgate regulations without being subject to the Administrative Procedures Act. According to CAPPS, requiring schools to notify BPPE about governmental agency action is broad and will capture infractions that have nothing to do with student consumer protections or qualify of education. CAPPS believes that language authorizing BPPE to deny approval to an institution that employs institution managers that had knowledge of, should have known, or knowingly participated in any conduct that was the cause for revocation or discipline at another institution should be deleted. CAPPS also expresses concerns about updates to the definition of "to operate" and questions what a core academic support service is as it relates to the definition of physical presence.

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

According to the Assembly Appropriations Committee, this bill would result in ongoing special fund costs of about $25.2 million annually and 109 positions to continue to fund BPPE and one-time special fund costs of $886,000 in the 2023-24 fiscal year and ongoing special costs of $824,000 beginning in the 2025-26 fiscal year for BPPE to hire four staff to implement this bill.

SUPPORT: (Verified 8/30/22)

Center for Public Interest Law, University of San Diego School of Law
Children's Advocacy Institute, University of San Diego School of Law
Consumer Federation of California
Consumer Protection Policy Center, University of San Diego School of Law
East Bay Community Law Center
Housing and Economic Rights Advocates
Legal Aid Foundation of Los Angeles
NextGen California

Public Counsel
Public Law Center
The Century Foundation
The Institute for College Access and Success
Veterans Legal Clinic, University of San Diego School of Law

OPPOSITION: (Verified 8/30/22)

Apollo Education Group, INC. & its Subsidiaries University of Phoenix, Insight Schools & College for Financial Business

ARGUMENTS IN SUPPORT: Supporters write that BPPE "serves an essential function for the state of California, tasked with serving as the first line of defense for students who enroll in private postsecondary programs and the primary state-level regulator of for-profit schools in California. The agency's enacting statute encapsulates the need to prioritize student and consumer needs: "…Protection of the public shall be the bureau's highest priority." We therefore appreciate the proposed amendments contained in SB 1433, which will enable the Bureau to take steps to proactively protect and aid students who are at risk of harm. At a time when enrollment is likely to increase, and when abusive practices may newly emerge, it is especially important that the Bureau has the authority and capacity necessary to carry out its responsibility to protect students.

ARGUMENTS IN OPPOSITION: The University of Phoenix writes that this bill should be amended to "be a basic sunset extension so we can negotiate a comprehensive work product" and that proposed changes to the Act be rejected and that the sunset simply be extended for an additional year to allow stakeholders true and meaningful involvement in the process. The University of Phoenix says there is no basis to eliminate the requirement that rules go through the rulemaking process. According to the institution, it is problematic for an institution to not be able to make a change in ownership, control, or business structure if it is pursuing accreditation. The institution also writes that it is very problematic if a program is automatically suspended after losing program approval from another state. According to University of Phoenix, notifying BPPE that an institution is the subject of an investigation should be limited to investigations by governmental agencies that are specifically germane to the offer of higher education, financial aid, or obligations to students. They are also concerned that updates to the definition of operate are problematic and will "conflate the offering of education programs by institutions from a physical location in California which requires an approval to operate vs. the current and accurate definition in 94850.5 that correctly defines an out-of-state private postsecondary educational institution as a private

entity without a physical presence in this state that offers distance education to California students.

ASSEMBLY FLOOR: 77-0, 8/29/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, 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, 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: Daly, Irwin, Voepel

Prepared by: Sarah Mason / B., P. & E.D. /
8/30/22 23:18:40

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

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UNFINISHED BUSINESS

Bill No: SB 1444
Author: Allen (D), et al.
Amended: 5/17/22
Vote: 21

PRIOR SENATE VOTES NOT RELEVANT

SENATE GOVERNANCE & FIN. COMMITTEE: 3-1, 8/30/22
AYES: Caballero, Durazo, Wiener
NOES: Nielsen
NO VOTE RECORDED: Hertzberg

ASSEMBLY FLOOR: 61-2, 8/29/22 - See last page for vote

SUBJECT: Joint powers authorities: South Bay Regional Housing Trust

SOURCE: Author

DIGEST: This bill creates the South Bay Regional Housing Trust.

Assembly Amendments delete the contents of the bill approved by the Senate on 4/28/22 and insert the current language.

ANALYSIS:

Existing law:

1) Allows two or more public agencies to use their powers in common if they sign a joint powers agreement. Sometimes an agreement creates a new, separate government called a joint powers agency or joint powers authority (JPA). Agencies that can exercise joint powers include federal agencies, state departments, counties, cities, special districts, school districts, federally recognized Indian tribes, and even other joint powers authorities.

2) Allows public agencies to also use the JPA law and the related Marks-Roos Local Bond Pooling Act to form bond pools to finance public works, working

capital, insurance needs, and other public benefit projects. JPAs can issue one large Marks-Roos Act bond and then loan the capital to local agencies, thus creating a "bond pool." Bond pooling saves money on interest rates and finance charges. It also lets smaller local agencies enter the bond market. Because JPAs are entities separate from its members, and so are not bound by the same limitations on debt issuance, voters need not approve bonds JPAs issue.

3) Establishes the Local Housing Trust Fund (LHTF) Program under the state Department of Housing and Community Development (HCD). The LHTF program provides matching grants (dollar for dollar) to local housing trust funds that are funded on an ongoing basis from private or public sources. Cities and counties with adopted, compliant housing elements, as well as charitable non-profit organizations, are eligible to apply for LHTF program funding. Eligible activities include loans for construction of rental housing projects with units restricted for at least 55 years to households earning less than 60% AMI [area median income] and down payment assistance to qualified first-time homebuyers.

This bill:

1) Creates the South Bay Regional Housing Trust (SBRHT), which can:

   a) Fund the planning, acquisition, and construction of housing for individuals experiencing homeless and persons and families of extremely low, very low, and low income, including, but not limited to, permanent supportive housing;

   b) Receive public and private financing or funds; and

   c) Authorize and issue bonds, certificates of participation, or other debt instrument repayable from public and private financing and funds it receives.

2) Allows the County of Los Angeles and cities within the jurisdiction of the SBCCOG, to enter into the agreement to create and operate the Trust, which must be governed by a board of directors the size of which the SBCCOG board determines. SBCCOG appoints the board members, which must include mayors, city council members, or county supervisors from cities or the county that join the JPA, and two homeless or housing policy experts. Members from the county board of supervisors can serve if their district is located wholly or partially with the SBCCOG territory. At its first meeting of each year, the board must select a chair and vice chair.

3) Requires that board members serve without compensation, but allows for reimbursement of actual expenses if approved prior to incurring the expense.

4) Provides that, if there is a vacancy, the SBCCOG board must appoint a qualified individual to fill the vacancy within 60 days.

5) Requires SBRHT to incorporate into its joint powers agreement annual financial reporting and auditing requirements that maximize transparency and public information as to the receipt of the Trust's use of funds. The report must show how the funds have furthered the Trust's purposes.

6) Requires SBRHT to comply with the regulatory guidelines of each state funding source received.

Background

Housing trusts. In recent years, the Legislature has created three new JPAs for the purpose of funding the development of housing for homeless and low income individuals and families. The Legislature created the Orange County Housing Finance Trust (OCHFT) in 2018 as a JPA among the County of Orange and 23 of the 34 cities in the county (AB 448, Daly, Chapter 336, Statutes of 2018). According to the OCHFT, its members share the goal of creating 2,700 permanent supportive housing and affordable housing units by June 30, 2025. As of January 2022, OCHFT has completed or began construction of 1,676 units, with another 961 awaiting sufficient funding. OCHFT funded these units by leveraging matching grant funds from the state's LHTF program to issue deferred payment loans to developers. The Legislature created the San Gabriel Valley Regional Housing Trust (SGVRHT) in 2019 as a JPA among some of the cities throughout the San Gabriel Valley (SB 751, Rubio, Chapter 670, Statutes of 2019). In February 2020, members formed SGVRHT, which currently has 21 member cities. According to the SGVRHT, the Trust received $1 million in matching grant funds from the state's LHTF Program for the construction of 71 affordable housing units across two projects in the Cities of Claremont and Pomona scheduled for completion in 2022. Additionally, SGVRHT funded a non-congregate emergency shelter pilot program. The Budget Act of 2021 (SB 129, Skinner, Chapter 69, Statutes of 2021) allocated $20 million to SGVRHT. In 2021, the Legislature created the Western Riverside County Housing Finance Trust (WRCHFT) (AB 687, Seyarto, Chapter 120, Statutes of 2021). So far, the potential WRCHFT member agencies have not signed on to an agreement to create the agency.

South Bay Cities. The South Bay in Southern California contains more than one million people, with 16 incorporated cities, including portions of the City of Los

Angeles. According to the most recent count the Los Angeles Homeless Services Authority conducted in 2020, 4,560 individuals in the South Bay are experiencing homelessness, and more than 75% remain unsheltered. According to the South Bay Cities Council of Governments (SBCCOG), the state's affordable housing crisis is especially acute in the region due to particularly high housing costs in formerly affordable communities. Seeking to fund the development of affordable housing to assist low-income households and individuals experiencing homelessness in the South Bay, the author wants to create the South Bay Regional Housing Trust as a JPA.

Comments

1) *Purpose of the bill*. According to the author, "California is in the midst of a relentless housing crisis. As rising rents and home prices continue to outpace wage growth and housing availability across the state, struggling families employed in economic epicenters like the South Bay region of Los Angeles County have had fewer and farther permanent housing options that have placed them beyond the span of the transit-rich infrastructure designed to serve them. If the South Bay cities are to meaningfully address the deep need for affordable housing, particularly for extremely low, very low, and low-income households and those experiencing homelessness, they must have the tools they need to pursue all of the collaborative and innovative solutions local leaders have to offer. SB1444 establishes the South Bay Regional Housing Trust through a joint powers authority between the County of Los Angeles and participating cities within the South Bay Cities Councils of Governments. Through this housing trust, South Bay cities will be able to pool funding and resources to support the planning and construction of housing, receive public and private financing and funds, and authorize and issue bonds. By convening the leaders and stakeholders of the South Bay cities, this joint powers authority will help ensure our region has a broader spectrum of funding and planning options to combat the local impacts of the housing crisis head on."

2) *Another one?* The beauty of the Joint Exercise of Powers Act is its flexibility: local agencies can come together to form an agreement of its own design to carry out any power common to each of its members. Agreements specify a JPA's mission, structure, governing board, each member's financial obligations, and provisions for members to enter and exit the JPA, among other items. As such, local agencies do not need legislative authority for a JPA unless it requires powers not common to all its members, or when statutory certainty and specificity is preferable to the agreement's details. SB 1444 follows in the footsteps of three housing finance trust JPAs the Legislature has already

created. Similar to these other JPAs, the authority within SB 1444 that its members lack is the ability to issue bonds repayable from public and private financing and funds received by the trust, which adds to the current authorities its members have to issue debt, such as general obligation bonds, or the specific Marks-Roos bond issuance authority only possessed by JPAs. Up to this point, existing housing trust JPAs have mostly relied upon state budget allocations and state LHTF matching grants to finance projects, which are available to any local housing trust, not just these JPAs. They have yet not exercised the authority to issue bonds from public and private financing, meaning the member agencies could have created the JPA locally without legislation. Regardless, SBCCOG believes its member cities would collectively be more competitive when they apply for other housing funds with a legislatively-approved JPA. What role should the Legislature play when local agencies seek to create these housing trust JPAs?

Related/Prior Legislation

SB 1177 (Portantino, Chapter 173, Statues of 2022) created the Burbank-Glendale-Pasadena Regional Housing Trust. The Governor signed the bill on 8/22/22.

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

SUPPORT: (Verified 8/29/22)

City of El Segundo
City of Gardena
City of Hermosa Beach
City of Lomita
City of Manhattan Beach
City of Rancho Palos Verdes
City of Rolling Hills Estates
City of Torrance
South Bay Cities Council of Governments
Southern California Association of Governments

OPPOSITION: (Verified 8/29/22)

California Association of Realtors
South Bay Association of Realtors

ASSEMBLY FLOOR: 61-2, 8/29/22

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

Prepared by: Jonathan Peterson / GOV. & F. / (916) 651-4119
8/30/22 19:57:08

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

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UNFINISHED BUSINESS

Bill No: SB 1446
Author: Stern (D), et al.
Amended: 8/24/22
Vote: 21

SENATE HEALTH COMMITTEE: 7-1, 4/27/22
AYES: Eggman, Gonzalez, Hurtado, Limón, Roth, Rubio, Wiener
NOES: Melendez
NO VOTE RECORDED: Pan, Grove, Leyva

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

SENATE FLOOR: 31-3, 5/26/22
AYES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Nielsen, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NOES: Dahle, Grove, Wilk
NO VOTE RECORDED: Bates, Borgeas, Hertzberg, Jones, Melendez, Ochoa Bogh

ASSEMBLY FLOOR: Not available

SUBJECT: Behavioral health-related treatment, housing that heals, and other services or supports

SOURCE: Author

DIGEST: This bill requires the Department of Health Care Services (DHCS), as the policy of the state, when revising, adopting, or establishing policies, regulations, or grant program criteria, as specified, to ensure that any individual with a severe behavioral health disorder who lacks supportive housing and

behavioral health services and is otherwise not living safely in the community receives a range of services. This bill specifies that this state policy does not expand any obligation of the state or other entities to provide access to behavioral health-related services, other than as specified.

Assembly Amendments redraft this bill for clarity but retain the provisions approved by the Senate.

ANALYSIS:

Existing law:

1) Establishes the Bronzan-McCorquodale Act, which is intended to organize and finance community mental health services for persons with mental health disorders in every county through locally administered and locally controlled community mental health programs. [WIC §5600]

2) Specifies, to the extent resources are available, the primary goal of the use of funds deposited in the mental health account of the local health and welfare trust fund should be to serve target populations that include, without being construed as establishing an order of priority, adults and older adults with a serious mental disorder, including homeless persons who are mentally ill. [WIC §5600.3]

3) Requires the development of county mental health plans (CMHP) for the provision of managed Medi-Cal specialty mental health services at the local level to eligible Medi-Cal beneficiaries. [WIC §14680, 14684]

4) Permits DHCS to enter into a Drug Medi-Cal (DMC) Treatment Program contract with each county for the provision of alcohol and drug abuse services within the county service area. Requires DHCS to contract for DMC treatment services to ensure beneficiary access to these services, including directly with DMC providers or qualifying entities, as specified. [WIC §14124.20, 14124.21]

5) Requires DHCS to ensure all covered mental health and substance use disorder (SUD) benefits are provided through Medi-Cal managed care plans, including a county that has opted into the DMC Organized Delivery System, as specified. [WIC §14197.1]

6) Establishes the Mental Health Services Oversight and Accountability Commission (MHSOAC) to oversee the implementation of the Mental Health Services Act, 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. Provides funding for Full-Service Partnerships (FSPs), which utilize a "whatever it takes" approach to services for the mentally ill, including housing supports. [WIC §5845]

7) Permits DHCS, until January 1, 2027, to establish the Behavioral Health Continuum Infrastructure Program for the purpose of awarding competitive grants to qualified entities to construct, acquire, and rehabilitate real estate assets or to invest in needed mobile crisis infrastructure to expand the community continuum of behavioral health treatment resources to build new capacity or expand existing capacity for short-term crisis stabilization; acute and subacute care; crisis residential; community-based mental health residential; SUD residential; peer respite; mobile crisis; community and outpatient behavioral health services; and other clinically enriched longer term treatment and rehabilitation options for persons with behavioral health disorders in the least restrictive and least costly setting. [WIC §5960, et seq.]

This bill:

1) Requires DHCS, as the policy of the state, when revising, adopting, or establishing policies, regulations, or grant program criteria, relating to access to behavioral health-related treatment, housing that heals, or other services or supports, to ensure that any individual with a severe behavioral health disorder who lacks supportive housing and behavioral health services and is otherwise not living safely in the community receives an individualized, clinically appropriate range of behavioral health-related treatment, housing that heals, and other services or supports.

2) Specifies that this state policy does not expand any obligation of the state or other entities to provide access to behavioral health-related treatment, housing that heals, or other services or supports, or require the expenditure of additional resources beyond the requirement for relevant state agencies to consider the state policy, as specified.

3) Defines "housing that heals" as a behavioral health residential program that meets all of the following conditions:

    a) Leads to long-term supportive housing for individuals with severe and persistent behavioral health disorders;

    b) Offers services and resources that support the individual's development of skills and that maintain the individual's recovery, their mental and physical

health, their overall well-being, their connection with friends and family, and their need to be purposeful and to contribute to their community if desired;

c) Allows for a continuum of support, from least to most restrictive, as needed within the individual's lifetime; and,

d) Embraces therapeutic community models that increase well-being through intentionally engaging and empowering residents to develop community.

Background

According to information provided by the author's office, in a report by the Mental Health Services Oversight and Accountability Commission, full-service partnerships (FSPs) nearly doubled from 2010-2019, reaching approximately 65,000 FSPs across the state. A recent study by RAND found that FSP outcomes were associated with improvements in the areas of homelessness, criminal justice detention, behavioral health inpatient stays, and connection to outpatient primary care and employment. FSPs have helped those in high need, but unfortunately the programming and resources vary county by county and do not offer uniform and accurate data across the state, making it challenging to allocate appropriate funding and resources to the program. Finding options for affordable supportive housing across the state is also very limited for those in need for housing with an added level of care. There are only 196 facilities who offer longer-term care to those with mental illness, including community residential treatment facilities, mental health rehabilitation centers, special treatment programs in skilled nursing facilities, and state hospitals. Furthermore, in 2019, CalMatters reported that there has been a decline in the number of board and care facilities due to rising costs and inadequate state funding. The County Behavioral Health Directors Association of California, along with the County of Los Angeles and the Steinberg Institute, reported that the average cost of board and cares ranges between $2,500 to $4,000 a month per person.

Behavioral Health Continuum Infrastructure Program. The 2021-22 Budget Act allocated $756 million for the Behavioral Health Continuum Infrastructure Program to provide county behavioral health departments and non-profit community partners with funding to construct, acquire, or rehabilitate properties in order to increase treatment bed capacity. Another $2 billion of one-time funding is proposed for the 2022-23 Budget Act. The Newsom administration estimates that this funding will result in more than 5,000 new treatment beds statewide.

Treatment beds in California. According to a 2021 RAND report, California requires 50.5 inpatient psychiatric beds per 100,000 adults: 26.0 per 100,000 at the

acute level and 24.6 per 100,000 at the subacute level, or 7,945 and 7,518 beds, respectively. At the community residential level, the estimated need is 22.3 beds per 100,000 adults. RAND estimated that California has a total of 5,975 beds at the acute level (19.5 per 100,000 adults) and 4,724 at the subacute level (15.4 per 100,000 adults), excluding state hospital beds. If state hospital beds are included, these figures increase to 7,679 (25.1 per 100,000 adults) and 9,168 beds (29.9 per 100,000 adults), respectively. RAND also observed large regional variation. For example, excluding state hospitals, acute bed capacity ranged from 9.1 beds per 100,000 adults in the Northern San Joaquin Valley to 27.9 beds per 100,000 adults in the Superior county region. For subacute bed capacity, regional estimates ranged from 7.4 to 31.8 beds per 100,000 adults. At the community residential level, RAND estimated that California has a total of 3,872 beds (12.7 per 100,000 adults). California has a shortfall of approximately 1,971 beds at the acute level (6.4 additional beds required per 100,000 adults) and a shortage of 2,796 beds at the subacute level (9.1 additional beds required per 100,000 adults), or 4,767 subacute and acute beds combined, excluding state hospital beds. If state hospitals were included in this estimate, the shortage of acute inpatient beds would shrink to 267, and there would be no observable shortage in beds at the subacute level. Separately, RAND estimated a shortage of 2,963 community-based residential beds.

Comments

Author's statement. According to the author, an estimated 39.5 million people live in California, with approximately 1.4 million adults living with serious MH illness such as schizophrenia, bipolar disorder, and major depressive disorder (3.6% according to the Substance Abuse and Mental Health Services Administration [SAMHSA]). According to SAMHSA's "Behavioral Health Barometer, California 2015" report, 63.1% of adults with mental illness in California receive no mental health treatment, leaving vulnerable individuals with minimal support. Additionally, on any given day there are an estimated 161,000 individuals experiencing homelessness in California, approximately 66,000 in Los Angeles County alone, according to the 2020 Greater Los Angeles Homeless Count. Out of California's total homeless population, an estimated 32,000 individuals (20%) suffer from severe mental illness. Californians who are experiencing homelessness and facing mental health challenges often lack access to basic resources like sufficient food, clothing, temporary shelter, and health care, making each day a near impossible challenge. Given the level of crisis the state is experiencing with severe mental illness, the state must guarantee behavioral health care treatment, safe housing, and access to services to aid in the care and wellbeing of these

individuals who lack the resources or decision making abilities to seek them out on their own.

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

According to the Assembly Appropriations Committee, the costs to DHCS are unknown. The Department of Social Services (CDSS) also notes that local costs are unknown, but could be in the hundreds of millions to billions of dollars per year, as the bill addresses a broad population (General Fund (GF)). CDSS notes there are over 150,000 people in California experiencing homelessness. If only 10% of 150,000 people receive $50,000 worth of housing supports in a year, the cost would be $750 million. Further, there would be cost pressure of unknown magnitude to the trial courts to hear and adjudicate cases related to violations of this bill (Trial Court Trust Fund (TCTF)). If 20 cases are filed in state civil court annually, each requiring three days or 24 hours of court time, with average hourly workload costs of $1,000, the cost to the trial courts would be approximately $480,000 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 GF to perform existing duties.

SUPPORT: (Verified 8/30/22)

California State Association of Psychiatrists
Depression and Bipolar Support Alliance
Hope Street Coalition
National Alliance on Mental Illness
National Association of Social Workers, California Chapter
Treatment Advocacy Center

OPPOSITION: (Verified 8/30/22)

None received

ARGUMENTS IN SUPPORT: The National Association of Social Workers, California Chapter, writes, "In California there are approximately 53,000 people suffering from severe mental illness living on the streets without access to housing, mental health treatment, and other services. It is estimated that 16,000 of them are unable to care for themselves and require intensive treatment and/or permanent supportive housing. However, research shows that there is an extreme shortage of

beds in psychiatric facilities. This shortage is expected to increase over the next few years, creating an even more dire mental health crisis."

Prepared by: Reyes Diaz / HEALTH / (916) 651-4111
8/30/22 23:14:02

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

SENATE RULES COMMITTEE SB 1482
Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SB 1482
Author: Allen (D), et al.
Amended: 8/23/22
Vote: 21

SENATE HOUSING COMMITTEE: 5-1, 3/24/22
AYES: Wiener, Cortese, McGuire, Skinner, Wieckowski
NOES: Ochoa Bogh
NO VOTE RECORDED: Bates, Caballero, Umberg

SENATE TRANSPORTATION COMMITTEE: 13-3, 4/26/22
AYES: Gonzalez, Allen, Archuleta, Becker, Cortese, Dodd, Limón, McGuire, Min, Newman, Rubio, Skinner, Wieckowski
NOES: Bates, Dahle, Melendez
NO VOTE RECORDED: Wilk

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

SENATE FLOOR: 28-6, 5/26/22
AYES: Allen, Archuleta, Atkins, Becker, Bradford, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NOES: Bates, Borgeas, Dahle, Grove, Ochoa Bogh, Wilk
NO VOTE RECORDED: Caballero, Hertzberg, Hueso, Jones, Melendez, Nielsen

ASSEMBLY FLOOR: Not available

SUBJECT: Building standards: electric vehicle charging infrastructure

SOURCE: Acterra
EV Charging for All Coalition
Plug in America

DIGEST: This bill requires access to an electric vehicle (EV) charging infrastructure for each dwelling unit with access to a parking space in a multifamily dwelling.

Assembly Amendments indicate that the California Department of Housing and Community Development (HCD) may propose these standards not shall propose. In addition, they allow for possible limited exceptions for circumstances that cause unreasonable hardship.

ANALYSIS:

Existing law:

1) Establishes the California Buildings Standards Commission (CBSC) and requires any standards adopted or proposed by state agencies to be submitted to, and approved by, the CBSC.

2) Requires HCD to propose adoption, amendment, or repeal of building standards to CBSC for residential buildings.

3) Requires HCD and CBSC to actively consult with interested parties, including, but not limited to, investor-owned utilities, municipal utilities, manufacturers, local building officials, commercial building and apartment owners, and the building industry when proposing and adopting standards related to EV charging infrastructure.

4) Requires CBSC to publish the California Green Building Standards Code (CALGreen) it its entirety every three years along with supplement pages 18 months after each three year revision.

This bill:

1) Requires HCD to research, develop, and may propose mandatory building standards for the installation of electric vehicle charging infrastructure for parking spaces in all multifamily dwellings to the CBSC.

2) Requires the standards to include, at a minimum, the following:
   a) For each multifamily unit with access to parking, at least one space served by a dedicated branch circuit terminating in a receptacle space
   b) "EV Ready" signage at each parking spot equipped with EV charging infrastructure.

3) Requires HCD to consult with interested parties, which include: investor-owned utilities, manufacturers, municipal utilities, local building officials, commercial building and apartment owners, the building industry, multifamily dwelling residents, and electric vehicle equity advocate groups

Background

Building Codes in Statute. The California Building Standards Code (Title 24) serves as the basis for the design and construction of buildings in the state. California's building codes are published in their entirety every three years; intervening code adoption cycles produce supplement pages halfway (18 months) into each triennial period. Amendments to California's building standards are subject to a lengthy and transparent public participation process throughout each code adoption cycle. Through this process, relevant state agencies propose amendments to building codes, which the CBSC must then adopt, modify, or reject. HCD is the relevant state agency for residential building codes.

HCD has an open, public process in proposing building codes to CBSC. They use public focus group meetings, relevant state agencies, stakeholder groups, building officials, local government agencies, construction industry representatives, environmental community representatives, building product manufacturer representatives, and others for gathering input for the proposed building standards. This bill directs HCD to propose building codes with specific, minimum restrictions to CBSC. The sponsors, *EV Charging for All*, submitted alternative compliance pathways to HCD and CBSC for consideration, but the agencies did not have enough time to thoroughly review the pathways.

Comments

1) *Charging and installation types.* According to the Federal Department of Energy, most owners charge their EVs in their home. There are three different levels for charging electric vehicles. Level 1 charging uses a common household outlet, but is very slow. Level 1 charging works well for plug-in hybrids, but not for BEVs because their battery packs are much bigger. Level 2

charging infrastructure can charge a BEV from empty to full overnight, and it uses an outlet similar to an outlet for a dryer for a home. Level 3 chargers are for fast charging with few residential locations because they are very expensive and require large voltages. Charging at a level 3 station would cost more than the charging one's vehicle at home, but it is faster. Fast charging is a new technology and it remains to be seen whether home charging or fast charging stations are preferred by consumers. Consumers may prefer "filling up their tank" at a station than charging at home even if it is more expensive.

There are three categories of installation. "EV Capable" means that the space can be an EV charging port (everything but the outlet). "EV ready" means that there is an outlet for level 2 charging. "EV Installed" means that there is a charging station for level 2 charging versus an outlet. This bill requires the infrastructure for "EV ready" outlets.

The Federal Department of Energy estimates the cost to be $1,000-$20,000 for a level 2 charger. The cost ranges vary wildly depending on the output and amount of work needed for the infrastructure (conduits, site improvements, upgrading electrical service, etc.). The higher end numbers would be for complete retrofits and construction.

2) *CALGreen Requirements.* As of now, new one and two family dwellings and townhouses with attached private garages must have infrastructure capability for 40 A 208/240 V charging, or "EV capable" installation. For new multifamily dwellings, 10% of the total number of parking spaces must be EV charging spaces with ability for installation of electric vehicle supply equipment (EVSE). By 2023, 10% must have EV Capable installation, 25% EV Ready installation, and 5% must have EV chargers installed for multifamily projects with 20 or more units. For projects with fewer than 20 units, 20% of parking spots must have EV Capable installation and 25% must have EV Ready installation. The table below summarizes the requirements.

* all level 2	Other	EV Capable (everything but outlet)	EV Ready (outlet)	EV Installed (charging station)
Current law	10% of spaces in MDU able to	100% one and two family dwellings and townhomes with		

	have equipment	attached private garage		
2023 (20 units)		10%	25%	5%
2023 (<20 units)		20%	25%	
SB 1482			100% of dwellings with access to a parking spot	

3) *Amperage.* This bill sets a minimum charging amperage at 20 A. In the CALGreen building codes, the amperage set for installations in multifamily units is 40 A. At 20 A, a vehicle will be charging at about 15 miles per hour. A home's electrical capacity is around 150-200 A. More cars can be charged at a time using 20 A than 40 A, but vehicle charging will require a lot of electricity which might require work on electrical panels. To a certain extent, smart chargers can help with balancing energy output.

4) *Free standing chargers?* It is relatively easy to imagine what getting this infrastructure installed looks like when cars are parked near a wall. Wiring can easily be installed in the wall with access to an electrical panel, and an outlet can be installed through the wall.

   It is more difficult when cars are parked away from a wall or outdoors. This would require wiring through an outdoor parking lot or installation of charging ports between parking spaces. A port with two chargers is about 1'x 1'x 4', depending on the brand. Although they are small, these installations can take up a lot of space otherwise available for other things. For example, nine stations would be the width of a parking space. This is not including any protective barrier for the expensive equipment, which can be hundreds to thousands of dollars. The space taken up by the installation may impact the amount of parking for the building, especially if the parking is not near a curb.

5) *Who pays?* Single family homes have their own electrical system and personal chargers, which makes it easier for people who use their home for EV charging to pay the bills for the electricity usage and maintenance. In multifamily dwellings, it is less clear who is responsible for the cost because the facility is shared. Now, because there are not many electric vehicles, multifamily

dwellings can distribute the cost of charging and maintenance to all the residents. As more EV's get on the road, understanding the best way to distribute the cost is important. Equity issues might be of concern for residents who do not own a car, use different methods of transportation (biking, busing, etc.), or own a gas-powered car. If one is able to connect specific dwellings to a parking spot, some of these issues are mitigated.

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

According to the Assembly Appropriations Committee:

- HCD estimates annual ongoing costs of approximately $198,000 (General Fund) beginning in fiscal year 2023-24, for one full-time District Representative II. HCD indicates this classification is identified due to the complexity of developing building standards for EV charging and addressing the significant amount of stakeholder interactions and coordination with other state agencies anticipated for development of these standards.

- Absorbable costs to CBSC to review standards proposed by HCD in the regular course and scope of the code adoption cycle (Building Standards Administration Revolving Fund).

SUPPORT: (Verified 8/29/22)

Acterra (co-source)
EV Charging for All Coalition (co-source)
Plug in America (co-source)
350 Bay Area
350 Bay Area Action
350 Butte County
350 Conejo / San Fernando Valley
350 Humboldt
350 Petaluma
350 Silicon Valley
350 Sonoma
350 Ventura County Climate Hub
Alameda County Democratic Party
Association of California Community and Energy Services
Atmos Financial, PBC
Benisol, LLC
Bluedot Energies

California Environmental Voters
California Interfaith Power & Light
California Interfaith Power and Light
Carbon Free Palo Alto
Center for Biological Diversity
Center for Community Action and Environmental Justice
Charge Across Town
Citizens' Climate Lobby San Mateo County Chapter
CivicWell
Clean Air Coalition
Clean Coalition
Climate 911
Climate Equity Policy Center
Climate Reality Project Bay Area Chapter
Climate Reality Project, San Fernando Valley
ClimatePlan
Coltura
Common Sense Design
Community Resource Project, Inc.
Cool Planet Working Group of First Presbyterian Church of Palo Alto
Cool the Earth
Dayenu Circle of Jewish Silicon Valley
Edge Communications, Inc.
Elders Climate Action NorCal Chapter
Elders Climate Action SoCal Chapter
Electric Auto Association San Joaquin Valley
Electric Vehicle Association Silicon Valley Chapter
Electric Vehicle Charging Association
EV Association of San Diego
Evsplussolar.org
Global Genesis, Inc.
GoPowerEV
Green Latinos
Green Sanctuary Committee of The Unitarian Universalist Church of Palo Alto
Greenbank Associates
Indivisible Ross Valley
Indivisible Sacramento
Inland Empire Electric Vehicle Association
Laura Stokes Online Art Sales and Gallery
Let's Green Ca!

Liquid Website
Marin/Sonoma Electric Vehicle Squad
Menlo Spark
Milestone Consulting LLC
Mothers Out Front California
Mothers Out Front Silicon Valley
Orange Coast Huddle Pac
Peninsula Interfaith Climate Action
Project Green Home
Recolte Energy
Redwood Energy
Resource Renewal Institute
Sacramento Electric Vehicle Association
San Francisco Bay Area Physicians for Social Responsibility
San Mateo Climate Action Team
Santa Cruz Climate Action Team
Sierra Club California
Sustainable Silicon Valley
Sustainable Transportation Solutions
The Climate Center
The Climate Reality Project: Silicon Valley
Union of Concerned Scientists
Vegetarians in New Energy Sources
Ventura County Climate Club
West Marin Climate Action
One individual

OPPOSITION: (Verified 8/29/22)

Apartment Association of Greater Los Angeles
Building Owners and Managers Association of California
California Apartment Association
California Association of Realtors
California Building Industry Association
California Building Officials
California Business Properties Association
California Business Roundtable
Institute of Real Estate Management
International Council of Shopping Centers
Southern California Rental Housing Association
Western Manufactured Housing Communities Association

ARGUMENTS IN SUPPORT: According to the author, "SB 1482 requires newly built multifamily residences in California to provide Electric Vehicle (EV) Ready charging access for every unit that is allocated a parking space. Vehicle manufacturing and consumer choices continue trending toward EV adoption. Retrofits are extremely difficult and far more expensive than preparing for EV Ready charging at the time of new construction. The additional upfront cost of adding EV Ready charging access for all new units represents only 0.03% of a typical building cost – and only 10% the cost of installing the same access later as a retrofit. SB 1482 updates California's residential building code to better align with the state's climate, equity, and environmental justice values; minimizes cost and complexity for builders, apartment, and condo managers; and maximizes accessibility for EV drivers of all income levels."

ARGUMENTS IN OPPOSITION: Those writing in opposition state this bill will place cost-prohibitive standards with not much flexibility in changing them because the building code will be in statute. They note the current standards took effect in 2015 and have been updated every 18 months through the administrative building standards adoption process and stringency has increased.

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8/30/22 23:14:02

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

SENATE RULES COMMITTEE SB 1496
Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SB 1496
Author: Committee on Governance and Finance
Amended: 8/25/22
Vote: 27

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 4/20/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

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

ASSEMBLY FLOOR: Not available

SUBJECT: Taxation: tax, fee, and surcharge administration: insurance tax rates

SOURCE: California Department of Insurance
California Department of Tax and Fee Administration
Franchise Tax Board

DIGEST: This bill makes technical changes to tax administration law recommended by the California Department of Insurance, California Department of Tax and Fee Administration (CDTFA), and the Franchise Tax Board (FTB).

Assembly Amendments (1) replace additional references from the State Board of Equalization (BOE) with CDTFA, (2) postpone from January 1, 2023, to no later than January 1, 2026, the date for some used car dealers to begin remitting applicable sales or use tax to the Department of Motor Vehicles within 30 days of sale, (3) limit automatic deadline extension, and interest and penalty relief, to the first 12 months of a state of emergency declared by the Governor, (4) modify

interest waiver provisions when other state agencies are responsible for collecting taxes, (5) set a gross premium tax rate of zero for annuity policies or contracts that constitute qualified funding assets as defined, effective January 1, 2023, (6) remove the repeal of a statute directing the Department of Social Services to exchange information with FTB, (7) extend the Offer in Compromise Program for the Alcoholic Beverage Tax with modifications to account for the State Board of Equalization's Constitutional role, (8) clarify CDTFA's authority to seize cannabis or cannabis products, (9) remove provisions enacted earlier this year in AB 195 (Committee on Budget) (10) correct a drafting error in AB 195 relating to payment of cannabis taxes by electronic funds transfer, (11) allow CDTFA to disclose the name, business name, business city location, account number, and account status of a person registered with CDTFA for cannabis tax purposes, (12) permit CDTFA to provide cannabis tax information to a state and local law enforcement agency to carry out the functions and duties of that agency upon request, (13) allow CDTFA to utilize the California Highway Patrol to serve warrants under the Fee Collection Procedures Law, (14) make additional technical and conforming changes, (15) resolve conflicts with AB 988 (Bauer-Kahan) and SB 1498 (Committee on Banking and Financial Institutions), and (16) add findings and declarations that it furthers the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act (Proposition 64, 2016).

ANALYSIS:

Existing law:

1) Authorizes specific persons employed by specific state agencies who are not peace officers to exercise the powers of arrest of a peace officer.

2) Establishes the Sales and Use Tax, Motor Vehicle Fuel Tax, Use Fuel Tax, Cigarette and Tobacco Products Tax, Timber Yield Tax, Energy Resource Surcharge, Emergency Telephone Users Surcharge, Hazardous Substance Tax, Integrated Waste Management Fee, Oil Spill Fee, Underground Storage Tank Maintenance Fee, Fee Collections Procedures Law, and Diesel Fuel Tax.

3) Enacts Taxpayer Transparency and Fairness Act of 2017, which created the CDTFA, and shifted all of the Board of Equalization's (BOE's) statutory tax administration functions to CDTFA (AB 102, Committee on Budget, Chapter 16, Statutes of 2017)

4) Allows CDTFA to provide specified relief to taxpayers directly affected by disasters proclaimed a state of emergency by the Governor, including tax

return and payment due date extensions, penalty and interest relief, and waiving fees to replace records lost due to disasters.

5) Requires taxpayers to file a statement with CDTFA requesting relief under penalty of perjury stating the basis for relief, unless the Governor issues an executive order waiving the requirement.

6) Contains provisions that guided the BOE as a public body administering a tax that are no longer relevant now that CDTFA administers these taxes, which does not have a board, and is instead under the direction of an executive director.

7) Requires used car dealers who made more than 300 retail vehicle sales in the previous calendar year, and who are not currently required to do so, begin remitting applicable sales or use tax to DMV within 30 days of sale commencing on January 1, 2023 (AB 85, Committee on Budget, Chapter 8, Statutes of 2020).

8) Provides that BOE may waive interest for late filing of returns when the failure to pay the sales or use tax due where the failure is due to an error or delay by a state agency that collects the tax on CDTFA's behalf.

9) Requires CDTFA to prepare a public record listing all refunds exceeding $50,000 at least ten days before issuing those refunds. The record includes:

   a) The taxpayer or feepayer's name, unless it is redacted for confidentiality.

   b) The taxpayer's case identification number.

   c) The amount of the refund.

10) Sets the public record threshold for a cancelled determination at $15,000 and the refund threshold at $50,000 under the Integrated Waste Management Fee Law.

11) Allows CDTFA to release or subordinate a lien if it will facilitate tax collection or is in the best interest of the State and the taxpayer.

12) Permits CDTFA to impose levies to collect delinquent liabilities.

13) Imposes the gross premiums tax on each insurer doing business in the state, at a rate of 2.35% of the amount of gross premiums, less return premiums, received in such year by such insurer upon its business done in this State.

14) Directs FTB to disclose returns and return information to federal agencies for specified purposes; however, this section shall only applies to disclosures made on or after January 23, 2002, and prohibits disclosures after December 31, 2005.

15) Establishes the Offer in Compromise (OIC) program under the Alcoholic Beverage Tax, Sales and Use Tax, Use Fuel Tax, Cigarette and Tobacco Products Tax, Emergency Telephone Users Surcharge, Oil Spill Fees, Under Storage Tank Maintenance Fee, Fee Collections Procedures Law, and Diesel Fuel Tax.

16) Provides that the State Board of Equalization (BOE) must assess and collect excise taxes imposed by the Legislature on the manufacture, importation, and sale of alcoholic beverages in this State (California Constitution, Article XX, Section 22).

17) Enacts the Cannabis Tax Law administered by CDTFA.

18) Provides that the requirement for taxpayers to remit taxes by electronic funds transfer does not apply to cannabis taxes until January 1, 2022 (AB 195, Committee on Budget, Chapter 56, Statutes of 2022).

19) Permits CDTFA to make liable for taxes as if they were the cannabis cultivator or retailer any unlicensed person who possesses, keeps, stores, or retains for the purposes of sale, or sells or offers to sell, and cannabis or cannabis products, which become immediately due and payable (AB 195, Committee on Budget, Chapter 56, Statutes of 2022).

20) Authorizes CDTFA to seize cannabis or cannabis products when they are not contained in secure packaging or without evidence of tax payment.

21) Enacts the Fee Collections Procedures Law, administered by CDTFA, which allows a sheriff or marshal, but not the California Highway Patrol, to serve warrants for the enforcement of warrants.

22) Sets the penalty for failure to pay and failure to file a return under the Emergency Telephone Users Surcharge at 10 percent of the amount of the surcharge with respect to the period for which the return is required.

This bill:

1) Strikes references to persons employed by the State Board of Equalization Investigations Division and replaces them with persons employed by CDTFA

designated by its executive director as a person who is not a peace officer but may exercise the powers of arrest of a peace officer.

2) Amends the Sales and Use Tax, Motor Vehicle Fuel Tax, Use Fuel Tax, Cigarette and Tobacco Products Tax, Timber Yield Tax, Energy Resource Surcharge, Emergency Telephone Users Surcharge, Hazardous Substance Tax, Integrated Waste Management Fee, Oil Spill Fee, Underground Storage Tank Maintenance Fee, Fee Collections Procedures Law, and Diesel Fuel Tax to allow CDTFA to extend filing deadlines for up to three months, and waive penalties and interest, for any person in an area identified in a state of emergency proclamation made by the Governor for the first 12 months the state of emergency proclamation is effective regardless of whether the taxpayer files a request.

3) Postpones, from January 1, 2023, to no later than January 1, 2026, the date for used car dealers that made more than 300 retail vehicle sales in the previous calendar year, and are not currently required to do so, to begin remitting applicable sales or use tax to DMV within 30 days of sale.

4) Modifies provisions that allow BOE to waive interest for late filing of returns and tax payment to instead refer to CDTFA, include state agencies other than the Department of Motor Vehicles, and account for delays as well as errors.

5) Changes the Sales and Use Tax, Motor Vehicle Fuel Tax, Use Fuel Tax, Cigarette and Tobacco Products Tax, Timber Yield Tax, Energy Resource Surcharge, Emergency Telephone Users Surcharge, Hazardous Substance Tax, Integrated Waste Management Fee, Oil Spill Fee, Underground Storage Tank Maintenance Fee, Fee Collections Procedures Law, and Diesel Fuel Tax to change the public record requirement for amounts over $50,000 from ten days before to ten days after the cancellation, credit, or refund is issued.

6) Conforms the threshold for a cancelled determination for the Integrated Waste Fee of $15,000 by increasing it to $50,000 for the purposes of the public record requirement.

7) Amends the Sales and Use Tax, Use Fuel Tax, Cigarette and Tobacco Products Tax, Energy Resource Surcharge, Emergency Telephone Users Surcharge, Hazardous Substance Tax, Integrated Waste Management Fee, Oil Spill Fee, Underground Storage Tank Maintenance Fee, Fee Collections Procedures Law, and Diesel Fuel Tax to clarify that CDTFA may release or subordinate a lien if that lien release or subordination would be in the State's and non-taxpayer property owner's best interest.

8) Declares that the change made to lien subordination provisions is declaratory of existing law.

9) Amends the Sales and Use Tax, Use Fuel Tax, Cigarette and Tobacco Products Tax, Timber Yield Tax, Energy Resource Surcharge, Emergency Telephone Users Surcharge, Hazardous Substance Tax, Integrated Waste Management Fee, Oil Spill Fee, Underground Storage Tank Maintenance Fee, Fee Collections Procedures Law, and Diesel Fuel Tax to authorize CDTFA to serve levy notices by electronic transmission to financial institutions, merchant credit card processors, and business payment processors in the aforementioned programs.

10) Sets a gross premium tax rate of zero for annuity policies or contracts that constitute qualified funding assets for purposes of Internal Revenue Code 130(d), effective January 1, 2023.

11) Extends, until January 1, 2028, the OIC program under the Sales and Use Tax, Use Fuel Tax, Cigarette and Tobacco Products Tax, Alcoholic Beverage Tax, Emergency Telephone Users Surcharge, Oil Spill Fees, Under Storage Tank Maintenance Fee, Fee Collections Procedures Law, and Diesel Fuel Tax. and provide that either the BOE's executive director or chief counsel, or CDTFA's executive director, may approve offers in compromise under the Alcoholic Beverage Tax.

12) Repeals as obsolete directs the FTB to disclose returns and return information to federal agencies for specified purposes that sunset on December 31, 2005.

13) Clarifies that the exemption from the requirement for taxpayers to remit cannabis taxes by electronic funds transfer applies on and after January 1, 2022.

14) Permits CDTFA to disclose the name, business name, business city location, account number, and account status of a person registered with the department.

15) Authorizes CDTFA to provide information it collects in administering the Cannabis Tax Law to law enforcement agencies upon request only to carry out the functions and duties of that agency.

16) Clarifies CDTFA's authority to seize cannabis products to explicitly include products seized from unlicensed persons subject to the penalty authority in AB 195, of if products were not entered in the track and trace programs, and sunset CDTFA's authority to seize cannabis or cannabis products without evidence of

tax payment on January 1, 2023, when responsibility for remitting the cannabis excise tax shifts from the distributor to the retailer.

17) Allows CDTFA to utilize the California Highway Patrol to serve warrants under the Fee Collection Procedures Law.

18) Caps the failure to file and failure to pay penalties under the Emergency Telephone Users Surcharge at 10% of the surcharge amount.

19) Makes conforming changes, including to strike references to BOE and replaces them with references to CDTFA.

20) Resolves conflicts with AB 988 (Bauer-Kahan) and SB 1498 (Committee on Banking and Financial Institutions).

21) Makes a legislative finding and declaration that it furthers the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act (Proposition 64, 2016).

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

According to the Assembly Appropriations Committee:

- Regarding taxpayer relief in the event of an emergency, likely revenue delay or loss of an unknown amount, as some taxpayers granted penalty or interest relief under this bill may not have otherwise requested the relief. (General Fund (GF) and special fund)

- Regarding offers in compromise, revenue gain of approximately $600,000 by allowing offers in compromise provisions to continue another five years. (GF and special fund)

- Regarding changes to publication of refunds, minor revenue gain of an unknown amount, depending on the number of refunds issued, as providing refunds faster reduces the amount of interest owed to the taxpayer. (GF and special fund)

- Regarding interest relief due to errors and delays of state agencies collecting taxes likely SUT revenue loss of an unknown amount, depending on the number of errors and delays made by other state agencies. (GF)

- Regarding delaying implementation of sales and use tax collections for used car dealers, negligible SUT revenue impact since this provision delays the

phase-in for used car dealers that are already more compliant taxpayers. CDTFA notes a postponement of full implementation will provide more time to resolve issues encountered during the first phase, resulting in a more efficient program for all taxpayers. (GF)

- Regarding exemption for electronic funds transfer for cannabis tax payment, negligible revenue impact, as CDTFA could still waive penalties if a taxpayer files a request for penalty relief and establishes reasonable cause for failure to remit via EFT. (GF and special fund).

SUPPORT: (Verified 8/29/22)

California Department of Insurance (co-source)
California Department of Tax and Fee Administration (co-source)
Franchise Tax Board (co-source)
American Council of Life Insurers
Association of California Life and Health Insurance Companies
Consumer Attorneys of California
National Structured Settlements Trade Association

OPPOSITION: (Verified 8/29/22)

None received

ARGUMENTS IN SUPPORT: According to the California Department of Tax and Fee Administration, "The California Department of Tax and Fee Administration (CDTFA) administers California's sales and use, fuel, tobacco, alcohol, and cannabis taxes, as well as a variety of other taxes and fees that fund specific state programs. CDTFA administered programs collect over $70 billion annually which in turn supports local essential services such as transportation, public safety and health, libraries, schools, social services, and natural resource management programs through the distribution of tax dollars going directly to local communities. CDTFA aims to make life better for Californians by fairly and efficiently collecting the revenue that supports our essential public services. The purpose of this bill is to make technical and housekeeping changes to CDTFA-administered taxes and fees to improve CDTFA's administration."

Prepared by: Colin Grinnell / GOV. & F. / (916) 651-4119
8/30/22 23:14:00

****** 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 AB 99
Office of Senate Floor Analyses
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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

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8/23/22 14:48:17

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THIRD READING

Bill No: AB 179
Author: Ting (D)
Amended: 8/28/22 in Senate
Vote: 21

SENATE BUDGET & FISCAL REVIEW COMMITTEE: 14-2, 8/29/22
AYES: Skinner, Caballero, Cortese, Durazo, Eggman, Kamlager, Laird, McGuire, Min, Newman, Pan, Roth, Stern, Wieckowski
NOES: Dahle, Grove
NO VOTE RECORDED: Nielsen, Melendez, Ochoa Bogh

ASSEMBLY FLOOR: Not relevant

SUBJECT: Budget Act of 2022

SOURCE: Author

DIGEST: This bill amends the 222 Budget Act to reflect changes necessary to implement the budget agreement.

ANALYSIS: Specifically, this bill:

1) Makes various technical adjustments to encumbrance periods, reversions, and reappropriations in various items in the 2022 Budget Act.

2) Updates provisional language related to public building construction in various budget items to reflect updated construction and rental costs.

3) Includes provisional language clarifying the use of funding provided in the 2022 Budget Act for eviction defense.

4) Provides $10 million for the Shasta County New Redding Courthouse.

5) Reduces court funding for Community Assistance, Recovery, and Empowerment (CARE) Act implementation activities by $33.7 million in 2022-23 to reflect a phased implementation approach.

6) Specifies that $75 million provided in the budget to the Office of Business and Economic Development is for Small Business Drought Relief Grants, however, if federal funds become available for this purpose, funds would be transferred to the General Fund or revert to the California Emergency Relief Fund.

7) Includes language to allow the reappropriation of $35 million provided to the Office of Business and Economic Development in the 2021-22 budget.

8) Moves $1.4 million from the State Board of Education to the Government Operations Agency to fund one-time workload related to the Holocaust Task Force.

9) Increases special funds appropriated for the California Traffic Safety Program at the Transportation Agency by $678,000.

10) Provides $5 million to the Health and Human Services Agency for the implementation of the CARE Act.

11) Makes technical changes and additions to budget provisions allowing for the reappropriation of various funds provided for in prior budget acts to the Natural Resources Agency.

12) Makes clarifying changes to budget bill language related to the Agricultural Land Equity Task Force at the Office of Planning and Research.

13) Extends the encumbrance period for certain Precision Medicine expenditures to 2029 to conform to the expected duration of the research projects adopted in the budget package.

14) Includes provisional language specifying $25 million of the California Volunteers funding provided to Office of Planning and Research will be used for the Summer Youth Job Corp.

15) Provides $6.4 million in reimbursement authority to the Office of Emergency Services (Cal OES) to extend an existing contract for an operational observer,

related to public safety power shutoffs, and includes provisional language requiring reporting on various data points.

16) Eliminates a duplicate appropriation of $150,000 from the Mental Health Services Fund for the Department of Human Resources.

17) Includes provisional language authorizing the Department of Finance to augment the Secretary of State's budget to cover legal costs from the Department of Justice.

18) Includes provisional language outlining the expenditure of outreach funding for the California Kids Investment and Development Savings Program (CalKIDS) in the Scholarshare Investment Board budget item.

19) Extends the deadline for a report from the California School Finance Authority on the use of funds in the Charter School Facilities Grant Program to December 1, 2024.

20) Includes provisional language regarding funding in the Department of Housing and Community Development on various budget items.

21) Provides that, of the $150 million provided in AB 178 for adaptive reuse, no less than 25 percent shall be for the adaptive reuse of individual sites or structures, with the remainder provided for infrastructure and capital projects to enable additional adaptive reuse projects. Of this, provides that $15 million shall go for projects in small jurisdictions and $90 million for projects in large jurisdictions.

22) Provides $5 million for the Department of Housing and Community Development to implement policy recommendations related to indoor air temperature.

23) Provides $1 million in funding for the California High Speed Rail Inspector General.

24) Includes $27.3 million special fund for the California Highway Patrol San Bernardino Area office replacement project.

25) Includes $847,000 federal funds for the Energy Commission for the power plant site certification and corridor designation program.

26) Amends the Beverage Contain Recycling program item for the CalRecycle to appropriate $233.3 million with new provisional language specifying use of the funds.

27) Implements a clinic workforce stabilization and retention payment program by providing $70 million at the Department of Health Care Services, including moving funding that had been budgeted in the Department of Health Care Access and Information for that purpose.

28) Makes technical changes to budget provisional language for the Golden State Social Opportunity Program at the Department of Health Care Access and Information.

29) Allocates $14 million for a psychiatrist loan repayment program at the Department of Health Care Access and Information, with $7 million available for a five year service commitment at Department of State Hospitals, and $7 million for a five year service commitment in a public behavioral health system with an emphasis on individuals with serious mental illness that are justice involved, or that are, or at risk of, experiencing homelessness.

30) Allocates $5 million for clinic workforce programs at the Department of Health Care Access and Information, with $4 million available for nurse practitioner postgraduate fellowships and $1 million available for physician assistant postgraduate fellowships.

31) Removes $10 million of CARE Court implementation funding from the Department of Aging's budget and shifts it to the Health and Human Services Agency and Department of Health Care Services, for training of volunteers, in order to be consistent with the CARE Court policy bill.

32) Appropriates $57 million General Fund to the Department of Health Care Services to support county costs for implementation of the CARE Act, contingent on approval of necessary statutory changes, including $31 million for planning and preparation activities and $26 million specifically for the first cohort of counties implementing the act.

33) Allocates $25 million General Fund from the Department of Health Care Services to the County of Santa Cruz to support the Pajaro Valley Health Care District acquisition of Watsonville Community Hospital.

34) Allocates $10 million General Fund to the Department of Health Care Services to support increased eligibility for the Hearing Aid Coverage for Children Program.

35) Provides $41.5 million of additional General Fund to the Department of Public Health for purposes related to the monkeypox state of emergency and includes provisional language authorizing the Department of Finance to request additional funding necessary for the State's response. Of this amount $15.75 million supports community response to monkeypox including $1.5 million that shall be used for grants to community-based organizations to support the administration of monkeypox vaccinations.

36) Allocates $2 million General Fund to the Department of Public Health to expand access to the wraparound model of care for individuals diagnosed with amyotrophic lateral sclerosis (ALS).

37) Reflects additional $3 million federal funds for Early Start at the Department of Developmental Services.

38) Includes $354 million federal funds for the Department of Social Services to implement child care stipends.

39) Makes technical and conforming changes to Department of Education state and federal funds and provisional language.

40) Adjusts the expenditure authority for the State Special Schools to reflect additional funding appropriated in the 2022 Budget Act.

41) Removes the cap for reimbursable school meals, and clarifies that any remaining funds for school meals are directed to disaster relief payments first.

42) Authorizes expenditure authority of $1.86 million from the Test Development and Administration Account, Teacher Credentials Fund for the Commission on Teacher Credentialing.

43) Provides $2.19 million to the California Community Colleges for the Tauzer Gym Renovation project at Santa Rosa Junior College.

44) Includes provisional language specifying $55 million included in the budget act in the Department of Industrial Relations is for the Apprenticeship Innovation Funding program.

45) Specifies that $4 million provided to the Department of Technology will be allocated for a State Digital Equity Plan.

46) Provides the Lithium Extraction Excise Tax Fund a $1.4 million loan from the General Fund.

47) Adds $14 million for medical surge staffing at the Veterans Homes of California with provisional language allowing the Department of Finance to augment this authority subject to Joint Legislative Budget Committee notification.

48) Reflects an additional $2.2 million federal funds to the Public Utilities Commission Rail Transit Safety Program.

49) Includes $1 million for a Kern County redistricting commission.

50) Updates control section language related to the claiming of federal funds to reflect recent passage of the Inflation Reduction Act and the CHIPS Act of 2022.

51) Amends district priorities provided for in the 2022 budget to allow funding to be allocated. This includes programming of all available funding, designation of state and local fiscal agents, and including state administrative costs in various department responsible for allocating the funding.

52) Appropriates $25 million General Fund to the Office of Planning and Research (OPR) for the Save Our Water Campaign.

53) Appropriates $4 million General Fund to the Department of Water Resources (DWR) for studying salmon reintroduction.

54) Appropriates $6.8 million General Fund to various departments for expediting large-scale habitat projects.

55) Appropriates $24 million for watershed climate resilience.

56) Appropriates $10 million to the California Department of Forestry and Fire Protection (CalFire) for the Forest Improvement Program for Small Farmers.

57) Appropriates $2 million to the CalFire Nursery.

58) Appropriates $10 million for tribal engagement in wildfire matters.

59) Appropriates $13 million to CalOES for home hardening.

60) Appropriates $4 million to CalFire and the University of California for land use planning and public outreach related to wildfire prevention.

61) Appropriates $20 million to Department of Conservation (DOC) for regional forest capacity.

62) Appropriates $5 million to CalFire for State demonstration forests.

63) Appropriates $7 million to CalFire for monitoring and research.

64) Appropriates $3 million for LiDAR remote sensing.

65) Appropriates $4 million to the Air Resources Board (ARB) and the State Water Resources Control Board (SWRCB) for prescribed fire and water permitting.

66) Appropriates $15 million to CalFire for workforce training.

67) Appropriates $5 million to CalFire for transportation for woody material.

68) Appropriates $2 million to OPR for market development to help address wildfire resiliency.

69) Appropriates $54 million to the Department of Fish and Wildlife (DFW) and $36 million to the Delta Conservancy for Nature-Based Solutions (NBS) Wetlands Restoration Program.

70) Appropriates $200 million to the Wildlife Conservation Board for various NBS programs.

71) Appropriates $70 million to state conservancies for implementation of various NBS purposes.

72) Appropriates $36 million to DFW for Natural Community Conservation Program Planning and Land Acquisition.

73) Appropriates $42 million to DFW and $10 million to Santa Monica Mountains Conservancy for wildlife corridors.

74) Appropriates $14 million to DOC for Climate Smart Land Management Program.

75) Appropriates $2 million to Wildlife Conservation Board (WCB) for Resource Conservation Investments Strategies.

76) Appropriates $38 million to the California Conservation Corps for Local and Tribal NBS Corps.

77) Appropriates $70 million to the California Natural Resources Agency (CNRA) for Tribal NBS Program.

78) Appropriates $7.5 million to CalRecycle for the Compost Permitting Pilot Program.

79) Appropriates $2 million to CNRA for NBS Partnerships and Improvements.

80) Appropriates $11 million to the State Coastal Conservancy for San Francisco Bay Wetlands Support.

81) Appropriates $17 million to CalFire for Green Schoolyards (Urban Forestry).

82) Appropriates $85 million to Strategic Growth Council for community resilience centers.

83) Appropriates $3 million to Department of Public Health, $8 million to Department of Industrial Relations, and $2.8 million to Department of Social Services for extreme heat: enhanced protections for vulnerable communities.

84) Appropriates $0.6 million to California Department of Food and Agriculture (CDFA) for the Animal Mortality Management Program.

85) Appropriates $0.3 million to CDFA for the Origin Inspection Program.

86) Appropriates $1.08 million to CDFA and $1.08 million to Department of Pesticide Regulation for integrated pest management technical assistance.

87) Appropriates $6 million to the Office of Planning and Research (OPR) for a community-based public awareness campaign as it relates to extreme heat.

88) Appropriates $25 million to OPR for the Community Resilience and Heat Program.

89) Appropriates $66.5 million to DWR for local assistance for the purposes of watershed climate resilience.

90) Appropriates $67 million to WCB for the Cascades and High Sierra Upperwatersheds Program for purposes of watershed climate resilience.

91) Appropriates $67 million to WCB for the Land Acquisition and Habitat Enhancement Program for the purposes of watershed climate resilience in Southern California.

92) Appropriates $37.5 million GGRF to the Ocean Protection Council for purposes of implementation of SB 1 (Atkins) for purposes of addressing sea level rise.

93) Appropriates $37.5 million GGRF to the State Coastal Conservancy for purposes of protecting communities and natural resources from sea level rise.

94) Appropriates $75 million to the Department of Parks and Recreation (Parks) for the Statewide Parks Program.

95) Appropriates $5 million to the State Water Resources Control Board (SWRCB) for water refilling stations at schools.

96) Appropriates $90 million to SWRCB for water recycling.

97) Appropriates $25 million to Parks for Outdoor Equity Grants.

98) Appropriates $10 million to CNRA for Redondo Beach wetlands restoration.

99) Appropriates $40 million to the Wildlife Conservation Board for San Joaquin Valley flood plain restoration.

100) Appropriates $5 million to the Department of Housing and Community Development for staffing to address indoor air quality issues.

101) Appropriates $5 million to CNRA for the La Brea Tar Pits.

102) Appropriates $0.5 million to the California Environmental Protection Agency for the Water Energy Nexus Registry.

103) Appropriates $280 million Greenhouse Gas Reduction Fund (GGRF) (out of a total of $1.58 billion GGRF) for the Cap-and-Trade Discretionary Spending Plan, as follows:

a) $50 million to the ARB for Clean Cars 4 All and other Equity Projects

b) $10 million to the ARB for AB 617 implementation.

c) $75 million to State Coastal Conservancy and Ocean Protection Council to address sea level rise.

d) $5 million to ARB for methane satellites.

e) $30 million to ARB for community air monitoring.

f) $20 million to ARB for lower emission boats.

g) $10 million to ARB to address HFC refrigerants.

h) $5 million to ARB for wood stoves.

i) $10 million to CalRecycle for methane reduction for wastewater treatment.

j) $10 million to California Department of Food and Agriculture (CDFA) for methane reduction using cattle feed.

k) $20 million to CDFA for the Alternative Manure Management Program.

l) $20 million to the California Energy Commission for CalSHAPE.

m) $15 million to Department of Community Services and Development for farmworker housing in the Low-Income Weatherization Program (LWIP).

104) Appropriates the first year of a multi-year package of spending (total of $391 million) from the Beverage Container Recycling Fund (BCRF), as follows:

a) $73.3 million (total of $220 million spread over three years) for startup costs for recycling programs, including recycling centers, mobile recycling, reverse-vending machines, bag drop programs, high-volume counting equipment to enable "bag drop" at retail, and dealer cooperatives (which are 501c3 stewardship organizations consisting greatly of dealers that have an approved plan to provide consumer take back of beverage containers).

b) $50 million for quality improvement payments (QIPs).

c) $40 million for QIPs for thermoform material for PET bottle contamination reduction.

d) $30 million for startup loans for processors and recyclers.

e) $25 million to support a deposit return system for reusable containers (AB 962 (Kamlager), Chapter 502, Statutes of 2021).

f) $10 million (total of $20 million spread over three years: $10 million in first year, $7 million in second year, and $3 million in third year) for plastic market development payments.

g) $5 million for workforce development.

h) $1 million to the Department of Resources Recycling and Recovery (CalRecycle) to improve its website by providing information that enables consumers to identify the geographic location of all points of redemption for beverage containers, to be updated at least once per year.

105) Provides $100 million to support the Hydrogen Program at the California Energy Commission (CEC), and $5 million to Governor's Office of Business and Economic Development to support hydrogen hubs.

106) Provides $100 million to support the Industrial Grid Support and Decarbonization Program at the CEC.

107) Provides $25 million to support the Food Production Investment Program at the CEC.

108) Provides $162 million to support the Equitable Building Decarbonization program, of which $50 million is to support the TECH initiative.

109) Provides $20 million to support the adoption of ultra-low-global-warming potential refrigerants.

110) Provides $45 million to support Offshore Wind Infrastructure.

111) Provides $100 million to support Oroville Pump Storage.

112) Provides $200 million for energy transmission projects, with the first round supporting the Salton Sea region.

113) Provides $50 million to support carbon removal projects.

114) Provides $235 million to support zero emission vehicles and infrastructure, with $180 million to support Clean Cars 4 All and other equity projects, $15 million to support fueling infrastructure grants, and $40 million to support implementation of CARBs Commercial Harbor Craft regulations.

Comments

This bill amends SB 154 (Skinner, Chapter 43 Statutes of 2022), the 2022 Budget Act, as amended by AB 178 (Ting, Chapter 45, Statutes of 2022), to reflect adjustments made to the Budget Act in August of 2022. These changes include appropriating funding set aside in the Budget Act in June of 2022 to allow for further discussions and negotiations. In addition, this bill contains technical changes, corrections and updates identified after the budget was adopted.

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

According to the Senate Budget and Fiscal Review Committee, this bill provides an additional $41.5 million in new funding for the monkeypox public health emergency that was not projected in the 2022 Budget Act in June. The other provisions of this bill allocate expenditures that were assumed within that budget framework for General Fund purposes.

SUPPORT: (Verified 8/27/22)

None received

OPPOSITION: (Verified 8/27/22)

None received

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8/30/22 12:03:11

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

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THIRD READING

Bill No: AB 209
Author: Committee on Budget
Amended: 8/28/22 in Senate
Vote: 21

SENATE BUDGET & FISCAL REVIEW COMMITTEE: 13-2, 8/29/22
AYES: Skinner, Caballero, Cortese, Durazo, Eggman, Kamlager, Laird, McGuire, Min, Pan, Roth, Stern, Wieckowski
NOES: Grove, Newman
NO VOTE RECORDED: Nielsen, Dahle, Melendez, Ochoa Bogh

ASSEMBLY FLOOR: Not relevant

SUBJECT: Energy and climate change

SOURCE: Author

DIGEST: This bill makes necessary statutory changes to implement the energy related provisions of the 2022 Budget Act.

ANALYSIS:

This bill:

1) *Industrial Grid Support and Decarbonization Program.* Establishes the Industrial Grid Support and Decarbonization Program at the California Energy Commission (CEC) to provide financial incentives for industrial facilities to purchase and deploy advanced technology and equipment to support grid reliability, electrify processes, incorporate energy storage or renewable energy resources, increase energy efficiency, and develop or deploy decarbonization technologies.

2) *Food Production Investment Program (FPIP).* Establishes FPIP at the CEC to provide financial incentives to projects that accelerate the adoption of advanced energy technologies, and other decarbonization technologies at facilities that are

involved in food production and process, and other related support facilities to reduce emissions of greenhouse gases.

3) *Hydrogen Program.* Establishes the Hydrogen Program at the CEC to provide financial incentives to eligible in state hydrogen projects, as specified for demonstration or scale-up of production, processing, delivery, storage or end use. The bill prioritize projects that benefit geographically diverse areas of the state.

4) *Equitable Building Decarbonization Program.* Establishes the Equitable Building Decarbonization program at the CEC that includes a direct installation program and a statewide incentive program for low carbon building technologies. The direct install program shall be provided at minimum or no cost to low-to-moderate income residents, as specified.

5) *Offshore Wind Infrastructure Improvements.* Requires the CEC to establish and administer a program to support offshore wind infrastructure improvements to advance the capabilities of California's ports, harbors, and other water front facilities to support the build out of offshore wind facilities. Funding may be used to support developing retrofit concepts and investment plans, environmental studies and review, construction of retrofits, among others.

6) *Data Sharing.* Authorizes the California Independent System Operator to share information with a State Agency.

7) *Climate Catalyst Fund.* Establishes the Clean Energy Transmission Financing Account within the Climate Catalyst Revolving Loan Fund. Authorizes the Climate Catalyst program to support clean energy transmission projects. Specifies that the initial projects shall support transmission lines in the Salton Sea region, with future projects to other areas, as specified. The bill also authorizes the Public Utilities Commission (CPUC) and CEC to use climate catalyst projects to leverage federal financing.

8) *Carbon Removal Innovation Program.* Establishes the Carbon Removal Innovation Program to provide financial incentives for eligible projects that advance technologies for direct air capture of atmospheric carbon. Eligible projects shall include technology research, development and demonstration, and prototype and pilot research test centers to remove atmospheric carbon. The bill requires the CEC to consult with specified state and local agencies. The bill requires reporting on projects awarded and outcomes.

9) *Planning Reserve Margin.* Requires the CEC to develop recommendations by December 31, 2023 on approaches to determine the appropriate minimum planning reserve margin for local publicly owned electric utilities, as specified.

10) *Voluntary Offshore Wind and Coastal Protection Program.* Establishes the Voluntary Offshore Wind and Coastal Resources Program at the CEC to support state activities that complement or support federal laws related to the development of offshore wind facilities. The bill establishes the Voluntary Offshore Wind and Coastal Resources Protection Fund, which may accept federal and private sector moneys for this purpose.

11) *Self-Generation Incentive Program (SGIP).* Establishes a program within SGIP to provide incentives to eligible residential customers, including those in publicly owned utilities (POU), to support behind-the-meter solar photovoltaic systems and energy storage systems, as specified. Seventy percent of these incentives will be for low-income residents who install new behind-the-meter solar photovoltaic systems paired with energy storage systems or new energy storage system. Thirty percent of incentives will be to residential customers who install new storage systems.

12) *Climate Innovation Program.* Establishes the Climate Innovation Program at the CEC to provide financial incentives to California headquartered companies, as defined, for developing and commercializing technologies that help the state meet its greenhouse gas reduction targets and achieve its climate goals, or enable the state to be more resilient to impacts of climate change. Specifies that grant recipients, if there is a liquidity event, as specified, repay the amount of the financial incentive plus an additional 20 percent. Specifies that each financial incentive shall include performance metrics, including jobs created and environmental benefits.

13) *Public Utilities Commission Audits and Reviews.* Makes a variety of changes to the auditing process of the CPUC. Specifically, the bill authorizes the CPUC to apply a risk-based methodology to conduct audits or review of program related activities, as specified. The bill requires the CPUC to conduct a review or audit of books of records of every electrical or gas corporation at least once every five years, and every high-risk telephone, water or sewer corporation at least once every ten years.

14) *Independent System Operator Participation.* Requires specified electrical corporations to participate in the Independent System Operator (ISO), and prohibits them from withdrawing their facilities from the operational control of the ISO without CPUC approval, as specified.

15) *Lithium Extraction Sales and Use Tax Exclusion.* Authorizes the California Alternative Energy and Advanced Transportation Financing Authority (CAETFA) to provide an additional $15 million of sales and use tax exclusions in the 2022, 2023, and 2024 calendar year for projects that manufacture, refine, extract, process, or recover lithium. Allows CAETFA to consider, in addition to the required existing criteria for these projects, specific criteria relating to relocation of projects to California from states that have enacted certain legislation.

16) *Salton Sea Lithium Fund.* Renames the Lithium Subaccount within the Salton Sea Restoration Fund as the Salton Sea Lithium Fund and establishes the fund in the State Treasury.

17) *Hydrofluorocarbons Refrigerants.* Requires the California Building Standards Commission to consider adopting specified consensus safety standards. Specifies that if the commission does not adopt the consensus safety standards, then on July 1, 2024, no state or local building code shall prohibit the use of refrigerants listed as acceptable under the provisions of the federal Clean Air Act, as specified.

18) *Indoor Air Standards.* Requires the Department of Housing and Community Development to submit policy recommendations to the Legislature by January 1, 2025 to help ensure that residential dwelling units can maintain safe indoor temperature, as specified.

19) *Energy Projects and Consultation.* Existing law requires specified completed energy project applications to be submitted to California Native American tribes that are culturally and traditionally associated with the geographic area. This bill revises the related consultation requirements, and specifies that the treatment of tribal cultural resources shall comply with existing law. Additionally, this bill specifies that if the CEC concludes that a tribal cultural resource would be adversely impacted, then the CEC shall require tribal monitors at the site, as specified.

20) *Demand Side Grid Support Program***.** Specifies that eligible recipients of the Demand Side Grid Support Program shall include all energy customers, except those already enrolled in a demand response or energy load reduction programs, as specified. The bill authorizes CEC, in consultation with the CPUC, to adopt additional participation requirements or limitations.

21) Makes other various clarifying and technical changes.

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

According to the Senate Budget & Fiscal Review Committee, this bill creates the Voluntary Offshore Wind and Costal Resources Protection Fund and Private Donations Account.

SUPPORT: (Verified 8/25/22)

None received

OPPOSITION: (Verified 8/25/22)

None received

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

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THIRD READING

Bill No: AB 211
Author: Committee on Budget
Amended: 8/28/22 in Senate
Vote: 21

SENATE BUDGET & FISCAL REVIEW COMMITTEE: 13-2, 8/29/22
AYES: Skinner, Caballero, Cortese, Durazo, Eggman, Kamlager, Laird, McGuire, Min, Pan, Roth, Stern, Wieckowski
NOES: Grove, Newman
NO VOTE RECORDED: Nielsen, Dahle, Melendez, Ochoa Bogh

ASSEMBLY FLOOR: Not relevant

SUBJECT: Public resources trailer bill

SOURCE: Author

DIGEST: This bill is the omnibus Resources budget trailer bill. It contains provisions necessary to implement the 2022 Budget Act.

ANALYSIS: Specifically, this bill:

1) *Department of Pesticide Regulation (DPR): Pest Control: Implementation of Licensing Enhancements (cleanup).* Authorizes the Director of DPR to request specified information if the director finds or suspects that a sample taken or inspected from produce carries pesticide residue in excess of permissible tolerance and increases specified fines and penalties.

2) *Department of Conservation: Geologic Energy Management Division (CalGEM): Oil and Gas: Shall-Witness and May-Witness Operations: Witnessing In Person or Remotely.* Until January 1, 2028, explicitly authorizes CalGEM to witness may-witness operations remotely, and requires CalGEM to prioritize witnessing of may-witness operations in person to the maximum extent feasible. Requires CalGEM to include in an annual report to the

Legislature specified information regarding shall-witness and may-witness operations.

3) *Department of Toxic Substances Control (DTSC): Hazardous Materials Fees (cleanup).* Includes cleanup language related to fees and charges.

4) *Forest Health: California Environmental Quality Act (CEQA): Exemption: Prescribed Fire, Reforestation, Habitat Restoration, Thinning, and Fuel Reduction Projects.* Extends the sunset from January 1, 2023, to January 1, 2028 for the CEQA exemption related to prescribed fire, thinning, and 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 if certain conditions are met. This provision expands the exemption to include projects undertaken in whole or in part on federal lands as well as projects funded by tribal cultural burn and tribal wildfire funding authorized by the Budget Act of 2021. This provision includes specified notification requirements.

5) *Hexavalent Chromium.* States the intent of the Legislature, upon an appropriation in the Budget Act for the 2023-24 fiscal year, to make available $10 million to the Air Resources Board (ARB) to assist with the necessary transition away from the use of hexavalent chromium.

6) *California Beverage Container Recycling and Litter Reduction Act (Bottle Bill).* Extends the sunset of the plastic market development payment authorization from July 1, 2022, to July 1, 2025. This bill requires CalRecycle to adopt emergency regulations to establish requirements for the operation of bag drop machines, such as maximum daily consumer redemption values, requirements for the bag drop machine to accept all types of beverage containers, and tracking and reporting requirements. This bill requires CalRecycle to provide on its website information that enables consumers to identify the geographic location of all points of redemption for beverage containers.

7) *Bottle Bill: Quality Incentive Payments: Thermoform Plastic Containers.* Authorizes the Department of Resources Recycling and Recovery (CalRecycle) to pay a quality incentive payment to a certified recycling center for thermoform plastic containers diverted from curbside recycling programs, as specified.

8) *Climate Change: Community Resilience Center Program: Grant Program.* Establishes the Community Resilience Center Program, which is to be

administered by the Strategic Growth Council, in coordination with the Office of Planning and Research.

9) *Hollister Ranch.* Provides that the environmental review set forth in the Final Programmatic Environmental Impact Report for the Hollister Ranch Coastal Access Program (in the County of Santa Barbara), in combination with other environmental review documents, is conclusively presumed to satisfy CEQA for a project to effectuate public access and associated facilities undertaken or approved by a public agency.

10) *Water: Drought Response: Interim or Immediate Relief (cleanup).* Adds to the definition of "interim or immediate relief" certain activities to increase water conservation and drought resilience planning and includes post-performance monitoring as an eligible cost for interim or immediate relief.

11) *Fire Prevention: Moderate and High Fire Hazard Severity Zones (SB 63 (Stern) cleanup).* Requires a local agency to designate moderate and high fire hazard severity zones within 120 days of receiving recommendations from the State Fire Marshal (SFM). This provision also authorizes a local agency, at its discretion, to include areas with in its jurisdiction, not identified as moderate and high fire hazard severity zones by the SFM, as moderate and high fire hazard severity zones; and prohibits the local agency from decreasing the level of fire hazard severity zone as identified by the SFM.

12) *ARB: Medium- and Heavy-Duty Fleet Purchasing Assistance Program: Zero-Emission Vehicles (ZEVs) (SB 372 (Leyva) cleanup).* Makes ARB solely responsible for the development and implementation of the Medium- and Heavy-Duty ZEV Fleet Purchasing Assistance Program and eliminates or transfers all of the California Pollution Control Financing Authority's duties under the program.

13) *ZEV Outyear Investments.* States the intent of the Legislature to allocate $2.415 billion for the 2023-24 fiscal year to 2025-26 fiscal year for ZEV investments, as provided. The bill also states the intent of the Legislature that based on the fiscal analysis of funding, as specified, that $500 million annually be available for 2023-24 and 2024-25 to support various climate initiatives.

14) *Solid Waste: Plastic Pollution Prevention and Packaging. Producer Responsibility Act (SB 54 (Allen) cleanup).* Deletes the requirement to consider organic waste in establishing a recycled content requirement and includes a technical change.

15) *Public Resources: 2021 Budget.* Allocates funding to various programs in the Budget Act of 2021 related to natural resources.

16) *Legislative Priorities.* Provides funding to various programs, upon appropriation by the Legislature, in fiscal years post-2022-23.

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

According to the Senate Budget and Fiscal Review Committee, the funding related to the changes in this bill is contained in the Budget Act of 2022.

SUPPORT: (Verified 8/25/22)

None received

OPPOSITION: (Verified 8/25/22)

None received

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8/30/22 12:03:25

****** 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
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 321
Author: Valladares (R), et al.
Amended: 8/26/22 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 8/26/22 include double-jointing language to avoid chaptering conflicts with AB 185 (Budget Committee) and SB 185 (Budget and Fiscal Review Committee).

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 8/29/22)

California Catholic Conference
California School Employees Association

OPPOSITION: (Verified 8/29/22)

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
8/29/22 9:11:20

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

Office of Senate Floor Analyses
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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 ******

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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 920
Author: Aguiar-Curry (D), et al.
Amended: 8/23/22 in Senate
Vote: 27 - Urgency

PRIOR VOTES NOT RELEVANT

SENATE GOVERNMENTAL ORG. COMMITTEE: 11-0, 8/29/22 (Pursuant to Senate Rules 29.19)
AYES: Dodd, Nielsen, Allen, Archuleta, Glazer, Hueso, Jones, Kamlager, Portantino, Rubio, Wilk
NO VOTE RECORDED: Becker, Borgeas, Bradford, Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Craft distillers: direct shipping

SOURCE: Author

DIGEST: This bill authorizes, until January 1, 2024, a licensed craft distiller to directly ship distilled spirits manufactured and produced by the licensee at its premises to a consumer, as specified.

ANALYSIS:

Existing law:

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

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

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

4) Authorizes a person licensed in California or any other state as a winegrower who obtains a wine direct shipper permit to sell and ship wine directly to a resident of California, who is 21 years of age or older, for the resident's personal use and not for resale, as specified. Current law does not limit the amount of wine that a holder of a wine direct shipper permit can ship to consumers.

5) Authorizes an individual or retail licensee in a state that affords California retail licensees or individuals an equal reciprocal shipping privilege, to ship, for personal use, no more than two cases (no more than nine liters each case) per month to any adult resident in this state. Winegrowers are not considered a "retail licensee" therefore, the two cases per month to any adult resident does not apply to a holder of a wine direct shipper permit.

6) Creates the craft distillers license, which among other things, authorizes the licensee to produce up to 150,000 gallons of distilled spirts per year and sell up to 2.25 gallons of distilled spirits directly to a consumer at the licensee's licensed premises.

7) Creates the distilled spirits manufacturer's license, which allows a licensee to manufacture, produce, package, mix, flavor, color, label, and export distilled spirits.

This bill:

1) Authorizes, until January 1, 2024, a licensed craft distiller to directly ship distilled spirits manufactured and produced by the licensee at its premises to a consumer.

2) Provides that the amount shipped shall not exceed 2.25 liters per day and shall be solely for the consumer's personal use and not for resale.

3) Requires the licensee to maintain adequate records of the shipments and provide those records to the Department of ABC upon request.

4) Requires the licensee to require the common carrier to obtain the signature of any individual 21 years of age or older before delivering any distilled spirits shipped to an individual in this state.

5) Requires the containers in which the distilled spirits are shipped to be conspicuously labeled with the words: "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 YEARS OR OLDER REQUIRED FOR DELIVERY."

6) Contains an urgency clause.

7) Makes various legislative findings.

Background

Purpose of the Bill. According to the author's office, "AB 920 is needed immediately because ABC's regulatory relief ended on March 31 and California's craft distillers have already faced layoffs and closures as a result. California craft distillers have been losing money every day since March 31 because DTC made up 25% - 30% of their revenue. Most of California's family owned craft distilleries are slowly recovering from COVID. Tourism and in-person purchases at their tasting rooms are still down because of COVID, the economy and inflation. AB 920 is critical because shipping direct to consumers will allow CA Craft Distillers to make sales to consumers beyond their tasting rooms and get back the revenue they've been losing since March 31."

Tied-House Laws. The "tied-house" or "three-tier" system, separates the alcoholic beverage industry into three component parts of the manufacturer (the first tier), wholesaler (the second tier), and retailer (the third tier). In its simplest of forms, this set of laws is designed to separate manufacturers, distributors, and retailers of alcoholic beverages.

The original policy rationale for this body of law was to: (1) promote the state's interest in an orderly market; (2) prohibit the vertical integration and dominance by a single producer in the marketplace; (3) prohibit commercial bribery and protect the public from predatory marketing practices; and, (4) discourage and/or prevent the intemperate use of alcoholic beverages.

Thus, under a strict "three-tier" system, manufacturers would have no privilege to sell alcoholic beverages directly to consumers. Over the years however, the Legislature has expanded the privileges of manufacturers to include, among other things, the ability to sell alcoholic beverages directly to consumers. Some, like winegrowers enjoy not only the ability to sell alcoholic beverages directly to consumers at their licensed premises, but also the ability to ship directly to consumers. Others like craft distillers, are currently only statutorily allowed to sell directly to consumers at their licensed premises.

Granholm v Heald, 544 U.S. 460 (2005). In the 2005 *Granholm v Heald* case, the Supreme Court of the United States ruled that laws in New York and Michigan that permitted in-state wineries to ship wine directly to consumers but prohibited out-of-state wineries from doing so were unconstitutional. The court case, which was a consolidation of two separate lawsuits against Michigan and New York, pitted the Dormant Commerce Clause against the 21st Amendment.

Michigan and New York alcohol laws allowed in-state wineries to directly ship alcohol to consumers but prohibited such activity from out-of-state wineries. Plaintiffs argued that these laws violated the U.S. Constitution's Dormant Commerce Clause, which over the years has been interpreted to mean that states are prohibited from passing laws favoring in-state businesses over out-of-state businesses. On the other hand, the defendants argued that their laws were a valid exercise of state power under the 21st Amendment, which ended federal prohibition and allowed states to regulate alcohol importation. One of the state's justifications was that by regulating out-of-state wineries, the state might be able to hinder the shipment of alcohol to underage minors, which they believe served a valid state purpose.

After making its way through the courts, the two separate cases were ultimately decided by the U.S. Supreme Court. In a 5-4 opinion delivered by Justice Anthony Kennedy, the Court opined that both state's laws violated the commerce clause by favoring in-state wineries at the expense of out-of-state wineries. In essence, the case held that states have the burden to show that restrictions on out-of-state businesses that do not also apply to in-state businesses, need to be supported by a justifiable need to advance public health and safety, or for some other legitimate, non-discriminatory, reason. Prior to this decision, it was widely assumed that in-state manufacturers could be given more privileges compared to out-of-state manufacturers. Following the Granholm v Heald case, out-of-state manufacturers must generally be given the same privileges as in-state manufacturers.

This bill, in providing an in-state manufacturer a privilege not given to an out-of-state manufacture could result in possible lawsuits under the Granholm decision, even if this privilege is temporary.

DTC Shipping in California – Distilled Spirits. Prior to the creation of the craft distillers license in 2015, no distilled spirits manufacturer had the privilege of selling distilled spirits directly to a consumer. In 2015, AB 1295 (Levine, Chapter 640, Statutes of 2015) created the craft distillers license which, among other things, allowed a licensee to manufacturer up to 100,000 gallons of distilled spirits per year and sell 2.25 liters directly to a consumer, if that consumer attended a tasting at the licensed premises. For reference, normally a bottle of distilled spirits is 0.75 liters, meaning a consumer can purchase three bottles of distilled spirits per day directly from a craft distiller at their licensed premises.

Subsequent legislation, AB 1164 (Skinner, Chapter 695, Statutes of 2018), increased the maximum production to 150,000 gallons and removed the requirement that a consumer needed to attend a tasting before being able to purchase distilled spirits directly from a licensee. Current law is clear that the sale of distilled spirits directly to a consumer must occur at the craft distiller's licensed premises. Therefore, California law is clear that a craft distiller licensee is prohibited from shipping distilled spirits directly to consumers.

While a craft distiller does not have statutory authority to ship directly to consumers, at the beginning of the COVID-19 Pandemic, the Department of ABC, as part of the Governor's First Notice of Regulatory Relief, temporarily allowed craft distillers to ship up to 2.25 liters per day to consumers. On June 3, 2020, the temporary privilege was extended as part of the Governor's Eighth Notice of Regulatory Relief to December 31, 2021. On December 30, 2021, as part of the Governor's Ninth Notice of Regulatory Relief, the temporary privilege was once again extended to March 31, 2022. There was no additional extension past the March 31, 2022 date. Therefore, currently licensed craft distillers do not have the authority to ship directly to consumers.

If a craft distiller does not qualify to hold a craft distiller license, the licensee must obtain a distilled spirits manufacturer license, which does not have any off-sale privilege. As with beer, there is no statutory authority for out-of-state distilled spirits manufacturers to sell, ship, or deliver distilled spirits directly to consumers in California.

SB 920 will authorize, until January 1, 2024, a licensed craft distiller in California to directly ship distilled spirits manufactured and produced by the licensee at its

premises to a consumer. The bill does not provide a similar privilege to any out of state distilled spirits manufacturer.

Prior/Related Legislation

SB 517 (McGuire, 2021) would have created the beer direct shipper permit which would authorize beer manufacturers, regardless of specific type of license, who obtain a beer direct shipper permit, to sell and ship beer directly to a resident of California, who is 21 years of age or older, for the resident's personal use and not for resale. (Never Heard in the Senate Governmental Organization Committee)

SB 620 (Allen, 2021) would have authorized craft distillers, who obtain a distilled spirits direct shipper permit, to sell and ship specified amounts of distilled spirits directly to a resident of California, who is 21 years of age or older, for the resident's personal use and not for resale, as specified. (Never Heard in the Assembly Governmental Organization Committee)

SB 1198 (McGuire, 2022) would have created the beer direct shipper permit which would authorize beer manufacturers to sell and ship beer directly to a resident of California, who is 21 years of age or older, for the resident's personal use and not for resale. (Never Heard in the Assembly Governmental Organization Committee)

SB 1164 (Skinner, Chapter 695, Statutes of 2018) made various changes to the craft distiller's license, including eliminating the requirement that a person must attend a tasting before being able to purchase prepackaged containers of the licensee's spirits directly from the craft distiller and increasing the maximum amount of distilled spirits that a craft distiller is permitted to manufacture from 100,000 gallons to 150,000 gallons.

AB 1295 (Levine, Chapter 640, Statutes of 2015) created the craft distiller's license which, among other things, allow a licensee to manufacture up to 100,000 gallons of distilled spirts annually. Additionally, the licensee is authorized to sell to a consumer participating in a distilled spirits tasting, on the distiller's licensed premises, up to 2.25 liters of distilled spirits in any combination of prepackaged containers per day.

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

SUPPORT: (Verified 8/28/22)

Adams Grain Co

Alchemy Distillery
Amador Distillery
Autry Cellars
Bethel Rd Distillery- Cstro Cellars
Blinking Owl Distillery
California Agave Council
California Artisanal Distillers Guild
Calwise Spirits Co.
Castoro Cellars
Central Coast Distillery
Charbay Distillery
Clos Solene
Cutler's Artisan Spirits
Devil's Creek Distillery
Distillers of Slo County
Donati Wine and Spirits
Dry Diggings Distillery
Dunning Vineyards
Essential Spirits Alambic Distilleries
Golden Beaver Distillery
Greenbar Distillery
Hearst Ranch Winery
Hinterhaus Distilling
Home Base Spirits
Humboldt Spirits
Jetty Wave Distillery
Krobar Craft Distillery
Los Angeles Distillery
LXV Wine
Midtown Spirits, LLC
Napa Valley Distillery
Paris Valley Road Estate Winery
Peachy Canyon Winery
Pekut & Carwick Independent Bottlers
Pendray's Distillery
R6 Distillery
Re:find Distillery
Ringgold Distilling LLC
Shelter Distilling, Inc.
Spirit Works Distillery

St. George Spirits
Summerwood Winery
Surf City Still Works
Treecraft Distillery
Turley Wine Cellars
UPS
Ventura Spirits Distillery
Willie's Tin Shop
Willow Creek Distillery
Young & Wonder Spirits
10th Street Distillery
117 degrees West Spirits

OPPOSITION: (Verified 8/28/22)

None received

ARGUMENTS IN SUPPORT: According to supporters of the bill, "AB 920 is critical because shipping direct to consumers will allow CA craft distillers to keep their business open, retain employees, and continue to provide tax revenue to the state. If this bill doesn't pass, California craft distillers will lose employees and some will go out of business due to lost revenue without DTC combined with COVID reducing tourism and the rough economy."

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
8/30/22 0:35:03

****** 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 ******

Office of Senate Floor Analyses
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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 1051
Office of Senate Floor Analyses
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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 ******

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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 ******

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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

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1279
Author: Muratsuchi (D) and Cristina Garcia (D), et al.
Amended: 8/28/22 in Senate
Vote: 21

PRIOR VOTES NOT RELEVANT

SUBJECT: The California Climate Crisis Act

SOURCE: Author

DIGEST: This bill declares it the policy of the state to achieve net-zero greenhouse gas (GHG) emissions as soon as possible, but no later than 2045, to achieve that goal with at least an 85% reduction in GHG emissions, and to achieve and maintain net negative GHG emissions thereafter. The bill also creates requirements for reporting from the California Air Resources Board (ARB) and review by the Legislative Analyst's Office (LAO). This bill is contingent upon enactment of SB 905 (Caballero).

ANALYSIS:

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

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

2) Requires ARB to approve a statewide greenhouse gas (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, 2016).

    a) 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.

3) 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) Defines "net zero greenhouse gas emissions" as emissions of GHGs to the atmosphere being balanced by removals of GHG emissions over a period of time, as determined by ARB.

2) Declares it is the policy of the state to achieve net zero GHG emissions as soon as possible, but no later than 2045, and to achieve and maintain net negative GHG emissions thereafter.

3) States that this goal is in addition to, and does not replace or supersede, the GHG emissions reduction targets created by SB 32 (2016).

4) Declares it is the policy of the state to ensure that by 2045, statewide anthropogenic greenhouse gas emissions are reduced to at least 85% below 1990 levels.

5) Directs ARB to work with relevant state agencies to:

    a) Ensure that updates to the Scoping Plan identify and recommend measures to achieve these policy goals; and
    b) Identify and implement a variety of policies and strategies that enable carbon dioxide removal solutions and carbon capture, utilization, and storage technologies in California to complement emissions reductions and achieve these goals.

6) Requires ARB, by December 31, 2035, to evaluate the feasibility and tradeoffs of achieving the 85% emissions reduction goal relative to alternative scenarios to achieve the net zero emissions goal.

7) Requires ARB to annually report to the Joint Legislative Committee on Climate Change Policies on progress towards these goals.

8) Requires the Legislative Analyst's Office, every two years, to conduct independent analysis of ARB's progress towards these goals and prepare a public report detailing the review. The report shall include any recommendations for improvements, including shortfalls in direct emissions reductions, barriers to carbon dioxide removal deployment, and potential changes to ARB's evaluation and reporting practices that will advance transparency and accountability.

9) States that this act shall only become operative if SB 905 of the 2021-22 Regular Session is enacted and become operative on or before January 1, 2023.

Background

1) *California and the climate crisis.* 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 even moderate GHG reduction pathways.

   Climate change comes with a huge price tag for every government, and California is no exception. To give a sense of scale, California's 2018 wildfires (though only less than half the size of those in 2020) cost $148.5 billion in damages. This amount is roughly half of California's entire 2022-2023 budget. There is a greater human cost to climate change as well. In addition to capital losses, increased cost of resources and health costs, the impacts of climate change on mental health, food security, displacement and migration, and more are becoming a bigger part of the conversation but are still difficult to quantify.

   California has long prided itself on its climate leadership. Even when the

national climate discourse was still litigating whether the climate was changing or not, California began setting aggressive targets and taking decisive action. In the preface to an August 1989 report from the Senate Office of Research titled *The Greenhouse Effect and Global Climate Change: Doing Something About the Weather* then-President pro Tempore of the Senate David Roberti wrote, "Although a global problem, California bears significant responsibility for the increasing greenhouse effect. With only about .6 percent of the world's population, we create about 1.5 percent of the world's carbon dioxide, the major greenhouse gas. As a responsible member of the world community, California must explore ways to reduce its contribution to the global climate change problem." While some of those numbers vary slightly today, the message still rings as true as it did then, 33 years ago.

2) *Governor Newsom's climate pillars.* In the spirit of upholding California's climate leadership, Governor Newsom has taken steps in the last several weeks to push California further. In a July 22 letter to the chair of ARB, the Governor wrote, "The Legislature has been a leader in establishing California's ambitious climate goals and is our indispensable partner in increasing the ambition of those goals and making them a reality in our state. I am committed to working with the Legislature in the coming weeks to make carbon neutrality state law and to increase our ambition towards our 2030 climate goals."

   Subsequently, the Governor's Office provided five specific proposals to the Legislature on August 12th, of which this is one. In total, the package proposes to (1) accelerate our 2030 GHG emission reduction goal, (2) codify a 2045 carbon neutrality goal, (3) advance the state's clean electricity targets, (4) establish a statewide carbon capture, utilization, and storage (CCUS) framework, and (5) establish protections with setbacks from fossil fuel wells.

   All five of these bills bear similarity to legislative proposals from either past or present sessions, each of which substantially increases California's ambition on addressing the causes of climate change. Thus, the committee will likely be familiar with the broader considerations surrounding these proposals, if not yet the specifics included here.

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 – is essential in all scenarios that would keep Earth's average temperature within 1.5 °C of its historical average. Net zero GHG emissions is also often used interchangeably with "carbon neutrality,"

however net-zero GHG emissions implies the inclusion of GHGs other than those that contain carbon, such as nitrous oxide, as defined by AB 32 (Nunez, Chapter 488, Statutes of 2006). The sooner net-zero GHG emissions is reached globally, the less warming will be experienced.

In California, carbon neutrality by 2045 was set as a goal for the state under Governor Brown's Executive Order (EO) B-55-18. Prior to that, EO S-3-05 by Governor Schwarzenegger set the GHG reduction target of 80% below 1990 levels by 2050. A few additional sweeping targets have also been set to help achieve these goals, including SB 100 (De León, Chapter 312, Statutes of 2018) to get California to 100% zero-carbon energy by 2045, EO N-79-20 to phase out sales of gas-powered cars in the state by 2035, and EO N-82-20 to conserve 30% of the state's land and waters by 2030. Notably, besides SB 100 and the SB 32 target of 40% GHG reduction by 2030, all of these goals are established solely by executive order and thus, are not codified in statute.

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 also requires an emissions reduction level of 85 percent."

2) *Achieving net zero emissions is necessary to meet the challenge of the climate crisis.* The continued acceleration of clean energy and carbon neutrality goals by cities, states, and countries reflects the reality of observed climate change impacts, and the dire calls of climate scientists. California has long been seen as a global leader on climate change, but as more data is gathered and catastrophes are endured, the world has become increasingly aware of the need for drastic action, unprecedented in scale and necessity. AB 1279 would set a new ambitious goal of 85% GHG emissions reduction by 2045, which would

be one of the most ambitious reduction-specific goals in the world. Furthermore, by committing California to achieving net zero emissions, AB 1279 will ensure California stops contributing to climate change and helps solve the climate crisis.

3) *Setting ambitious reduction targets will clarify goals for the establishment of carbon dioxide removal strategies*. There are many different scenarios wherein California could achieve net-zero emissions. One extreme possibility is to only modestly reduce emissions and rely on massive amounts of carbon dioxide removal (CDR). However, nature-based carbon dioxide removal is susceptible to forest fires or other reversals and engineered carbon removal is expensive and not widely deployed.

   Alternatively, the state could cut emissions to zero. This would require absolutely herculean efforts in reducing emissions from all sectors of the economy, but would not necessitate any carbon removal to achieve net-zero status. The costs of developing and distributing zero-emission options for every single piece of energy generation, transportation, housing, industry, and all the rest of the state's economy would be tremendous.

   Undoubtedly, the most realistic and achievable path to net-zero in California relies on a mixture of emission reductions and carbon removal. This bill establishes a goal of 85% emissions reductions below 1990 levels by 2045, which would result in residual annual emissions of roughly 64 million metric tons of CO_2 equivalents. This ambitious goal reaffirms California's commitment to emission reductions and would mitigate the risks associated with heavily relying on carbon dioxide removal strategies that are susceptible to delays, reversals, and other shortcomings.

   This bill's enactment is contingent upon the enactment of legislation (SB 905) detailing how the state will responsibly develop and deploy CDR and CCUS strategies. The guidance on targets from this bill will help inform the goals of SB 905 and in turn the provisions of that bill will help California achieve the ambitious goals set forth in AB 1279. AB 1279 also wisely includes a provision for ARB to reassess the specific 85% goal in several years as new technologies become available and the state's experience with carbon removal strategies deepens. With this new information ARB will evaluate if the 85% reduction goal is still the best path to reach net zero by 2045, or if a new path is better. Passage of these two bills, along with other elements of the Governor's climate pillars, will require accelerated legislative action at the end of session,

which may make sense given the pressing severity of the climate crisis. AB 1279 and SB 905 will ensure California is doing everything it can to accelerate emissions reductions goals while continuing to grow its economy.

4) *Ensuring transparency and accountability*. Since establishing California's 2020 emissions target in AB 32 (2006), the Legislature has granted ARB the responsibility to chart a path to the state's goals and the authority to establish market-based compliance mechanisms and other regulations to achieve those goals. As a means to chart that path, ARB is required to release and update a Scoping Plan every five years. These Scoping Plan Updates provide a robust look at the suite of fiscal and policy levers that may be used to achieve the state's climate goals.

   Despite the regular updates from the Scoping Plan, questions remain unanswered about our progress towards state goals. To address these concerns AB 1279 directs ARB to give annual reports to the Joint Legislative Committee on Climate Change Policies on progress towards its goals. It also directs the Legislative Analyst's Office to conduct independent analysis of ARB's progress every two years and prepare a public report with recommendations on improving our progress. This will ensure that the state remains on track in achieving this complex and ambitious goal.

Related/Prior Legislation

AB 1395 (Muratsuchi, 2021) declared 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. AB 1395 failed passage on the Senate floor.

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

SUPPORT: (Verified 8/30/22)

Active San Gabriel Valley
California Environmental Voters
Coalition for Renewable Natural Gas
Environmental Defense Fund
Natural Resources Defense Council
Nextgen California
The Climate Center
The Nature Conservancy

OPPOSITION: (Verified 8/30/22)

Agricultural Energy Consumers Association
Almond Alliance of California
Asian Pacific Environmental Network
Bay Area Council
Bia Bay Area
Boma California
Building Industry Association of Fresno/Madera Counties, Inc.
Building Industry Association of San Diego County
Building Industry Association of Tulare/Kings County, Inc.
California Agricultural Aircraft Association
California Building Industry Association
California Building Industry Association of Southern California
California Business Properties Association
California Business Roundtable
California Citrus Mutual
California Cotton Ginners & Growers Association
California Fresh Fruit Association
California Fuels and Convenience Alliance
California Grain & Feed Association
California Independent Petroleum Association
California League of Food Producers
California Manufacturers & Technology Association
California Poultry Federation
California Rice Commission
California Seed Association
Center for Biological Diversity
Central Coast Alliance United for a Sustainable Economy
Communities for a Better Environment
Earthjustice
Far West Equipment Dealers Association
Food & Water Watch
Home Builders Association of Kern County
Home Builders Association of The Central Coast
Indigenous Environmental Network
Leadership Counsel for Justice and Accountability
Los Angeles County Business Federation
NAIOP California
North State Building Industry Association
Pacific Egg & Poultry Association

Physicians for Social Responsibility - Los Angeles
Poder
San Francisco Bay Physicians for Social Responsibility
United Chamber Advocacy Network
Western Agricultural Processors Association
Western Plant Health Association
Western States Petroleum Association

ARGUMENTS IN SUPPORT: According to a coalition of environmental organizations, "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.

"AB 1279 would codify a target for the state to achieve net zero greenhouse gas emissions as soon as possible, and by no later than 2045, and achieve and maintain net negative emissions thereafter, outlining a framework for reaching these goals that maximizes emissions reductions and ensures protection for communities and the environment. This includes a commitment to reducing greenhouse gas emissions 85% from 1990 levels by 2045. By doing this, the bill takes a critical step in addressing the climate disaster, ensuring that the state actively works towards minimizing its contribution to it, as it aims to achieve net zero and net negative greenhouse gas emissions.

"California has been recognized as a global leader in advancing climate policy, and AB 1279 is an important opportunity to continue this leadership and prompt other states and countries to adopt similar measures that respond to the climate disaster with urgency."

ARGUMENTS IN OPPOSITION: According to a broad coalition of opposed groups, "AB 1279 mandates the California Air Resources Board (CARB) to establish new climate goals to achieve 85% emission reductions by 2045, leading to massive reductions in new housing construction, agriculture production, energy, transportation, and all manufacturing. This is an extraordinarily aggressive goal that would require large-scale transformation of California's entire economy.

WSPA opposes AB 1279 for the following reasons: Just six years ago, this Legislature passed SB 32 which sets a 40% GHG emission reduction below 1990 target by 2030. The state is in its first two year of implementing this new target and

adding a new and more drastic target now is premature; It is estimated to cost Californians roughly $4 trillion dollars over the next 25 years; It is a regressive mandate that will hit those at the lower end of the income spectrum the hardest. AB 1279 would cost every household in California $5,600 to $10,700 annually; It makes building housing more expensive by a minimum of $50,000 per home; Risk hundreds of thousands of California jobs and could lead to companies moving to other states or countries causing emission leakage; Industries do not have the tools to comply with these types of goals; The Cap-and-Trade program that drives emission reductions from industries and was approved by the legislature with 2/3rds bipartisan support is set to expire in 2030; Policies to accelerate and promote Carbon Capture. Utilization, and Sequestration (CCUS) projects have been hijacked to make them too burdensome and unworkable, including to ban projects that actually reduce the carbon intensity of fuel in the state; CARB is currently, via the scoping plan, assessing how the state will meet the current goal, as well as a 2045 carbon neutrality goal which must include CCUS. This work should be completed prior to the authorization of a new goal in law; AB 1279 is tied to SB 905 which had little to no industry input and is so onerous that it will make CCUS projects nearly impossible to build in California."

Prepared by: Jacob O'Connor / Eric Walters / E.Q. / (916) 651-4108
8/30/22 21:09:41

****** 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

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. /
8/29/22 9:40:03

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

Office of Senate Floor Analyses
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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 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 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 ******

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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 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 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 ******

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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 ******

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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 ******

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THIRD READING

Bill No: AB 1757
Author: Cristina Garcia (D) and Robert Rivas (D), et al.
Amended: 8/28/22 in Senate
Vote: 21

PRIOR VOTES NOT RELEVANT

SUBJECT: California Global Warming Solutions Act of 2006: climate goal: natural and working lands

SOURCE: California Association of Resource Conservation Districts
Carbon Cycle Institute
The Climate Center
The Pew Charitable Trusts

DIGEST: This bill directs the California Natural Resources Agency (CNRA) to determine an ambitious range of targets for natural carbon sequestration, and for nature-based climate solutions, that reduce greenhouse gas (GHG) emissions for 2030, 2038, and 2045 to support state goals to achieve carbon neutrality and foster climate adaptation and resilience. It also includes provisions to avoid double counting emission reductions, updates the Natural and Working Lands Climate Smart Strategy, develops GHG tracking protocols, and biennially post progress made in achieving the targets on CNRA's internet website.

ANALYSIS:

Existing law:

1) Declares it is a policy of the state that the protection and management of natural and working lands (NWLs), as defined, is an important strategy in meeting the state's GHG emissions reduction goals, and that the protection and management of those lands can result in the removal of carbon from the atmosphere and the sequestration of carbon in, above, and below the ground. *PRC §9001.5.*

2) Directs CNRA, in coordination with the California Environmental Protection Agency (CalEPA), the Air Resources Board (ARB), the Department of Food and Agriculture (CDFA), and other relevant state agencies, to establish the Natural and Working Lands Climate Smart Strategy that creates a framework to advance the state's climate goals, considers how climate impacts will affect the ability of the state to sequester carbon on NWLs, supports the economic and resource value of the lands and considers multiple benefits, and supports pathways for certain sectors to participate in the transition to a carbon neutral economy. *Health and Safety Code* (*HSC) §39740.2*.

3) Establishes, pursuant to the California Global Warming Solutions Act of 2006 *(HSC) §§38500 et seq.),* ARB as the state agency responsible for monitoring and regulating sources emitting GHGs (*HSC §38510),* and directs ARB to:

    a) Approve a statewide GHG emissions 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% below the 1990 level by 2030. *HSC §§38550 and 38566, respectively.*
    b) Prepare and approve a scoping plan to achieve the maximum technologically feasible and cost-effective reductions in GHG emissions and to update the scoping plan at least once every 5 years. *HSC §38561.*

This bill:

1) Directs CNRA to determine an "ambitious range of targets" for natural carbon sequestration, and for nature-based climate solutions, that reduce GHG emissions for 2030, 2038, and 2045 to support state goals to achieve carbon neutrality and foster climate adaptation and resilience.

    a) CNRA must determine these targets on or before January 1, 2024, and in collaboration with ARB, CalEPA, CDFA, the expert advisory committee established in (3) below, and other relevant state agencies.
    b) These targets must be integrated into the scoping plan and other state policies.

2) Requires projects and actions developed to achieve the targets in (1) above to do all of the following:

    a) Support the state's efforts to achieve carbon neutrality,
    b) Take into account climate impacts,

c) Increase resilience to climate change impacts,
d) Reduce GHG emissions, and
e) Enhance carbon sequestration in a manner that maximizes ecological health and biodiversity, and complements other climate and resources goals.

3) Directs ARB to ensure that all emissions reductions associated with the targets in (1) above are accounted for in a manner that does not result in double counting. Further, notwithstanding any other law, emissions reduction projects and actions that receive state funding are not eligible to generate credits under any market-based compliance mechanism.

4) Directs CNRA to review and update the Natural and Working Lands Climate Smart Strategy to achieve the targets in (1) above.

   a) CNRA must review and update this strategy on or before January 1, 2025, and in consultation with ARB, CalEPA, and CDFA.
   b) The review and update must include specified information, including:

      i) Descriptions of the actions and projects undertaken on NWLs to date;
      ii) Quantified progress on emissions reductions, natural carbon sequestration, and cobenefits; and
      iii) A description of how the relevant agencies calculated emissions reductions, natural carbon sequestration, and cobenefits; among others.

5) Directs CNRA and ARB to jointly establish an expert advisory committee that is composed of specified researchers, technical assistance providers, experts, practitioners, and representatives of certain groups to do all of the following:

   a) Inform and review modeling and analyses for NWLs.
   b) Advise state agencies on implementation strategies and standardized accounting.
   c) Provide recommendations on addressing barriers to efficient implementation of this bill.

6) Directs ARB, no later than January 1, 2025, to develop standard methods for state agencies to consistently track GHG emissions and reductions, carbon sequestration, and, where feasible and in consultation with CNRA and CDFA, additional benefits from NWLs over time. In estimating and tracking GHG emissions and reductions and carbon sequestration, ARB must take into account, where feasible, both of the following:

a) GHG emissions and reductions of carbon dioxide, methane, and nitrous oxide related to NWLs.
b) Potential impacts of climate change, as specified, on the ability to reduce GHG emissions and sequester carbon from NWLs.

7) Directs CNRA, on or before January 1, 2025, and every two years thereafter, to publish data on its internet website on progress made in achieving the targets in (1) above, including on state expenditures made to implement these targets.

8) Defines terms, including:

a) "Natural carbon sequestration" means actions that are undertaken on NWLs to remove and provide storage of atmospheric greenhouse gases in vegetation and soils. This includes preservation, conservation, restoration, and sustainable management of these lands, which may include compost application, cover crops, hedgerows, planned grazing, urban forestry, riparian restoration, restoration of tidal flows to wetlands, and other forms of wetland restoration, among other relevant actions.
b) "Nature-based climate solutions" means activities, such as restoration, conservation, and land management actions, that increase net carbon sequestration or reduce GHG emissions in NWLs.

9) Makes a series of findings and declarations, and establishes legislative intent.

Background

NWLs. California's NWLs include forests, woodlands, rangelands, shrublands, grasslands, wetlands, farmlands, riparian areas, and urban green space. They cover more than 90% of the state and supply life-sustaining resources including clean water, air, food, and fiber. With the potential to sequester carbon and increase the state's capacity to withstand climate impacts, NWLs, when healthy, can play a critical role in California's integrated climate change strategies. However, when unhealthy, they can also be a source of GHG emissions, losing more carbon than they sequester due to wildfire, drought, disease, invasive species, soil disturbance, poor management, harvest, and conversion to higher intensity uses, among others. Climate change is projected to exacerbate many of these issues and associated losses, although human interventions in the form of preservation, conservation, restoration, and improved management of NWLs could slow or reverse these losses over the long-term.

NWLs can serve as a GHG source and sink. The Earth has a natural carbon cycle, in which carbon cycles between the land, ocean, and atmosphere. As part of this cycle, over decades or centuries, fire and plant respiration and decomposition move carbon from the land to the atmosphere while plant growth and other processes move carbon from the atmosphere to the land.

In California, according to ARB's latest NWL's Inventory, the state's lands were a net source of GHG emissions from 2001 to 2011, then a net sink from 2012 to 2014. These trends highlight the ability of NWLs to be both a source and a sink of GHGs, as well as the importance of looking at NWL data and trends over multi-year and multi-decadal time periods, as opposed to looking only at annual changes. Further, given recent climate and wildfire trends as well as declining ecosystem health, experts believe the state's NWLs are currently acting as a source of emissions and ARB estimates they will remain a net source through at least 2045.

It is important to note that GHG flux estimates come with a high degree of uncertainty. It is extremely challenging to parse the complex interactions between natural carbon cycles and human activity. Land use, management, and climate change, among other factors, all can impact whether these lands act as a sink or a source and can start negative feedback loops in which conversions of NWLs to higher intensity uses, poor management, and climate change cause these lands to release more carbon than they sequester.

Co-benefits of nature-based solutions. While there is some uncertainty around the scale of GHG mitigation and sequestration potential of NWLs under a changing climate, these solutions can provide substantial co-benefits to ecosystems and communities, including habitat resilience, groundwater recharge, water and air quality improvements, flood risk reduction, creating open space for communities, and protecting communities from extreme heat.

Comments

Committees. This bill covers issues under the jurisdictions of both the Senate Natural Resources and Water and Environmental Quality Committees. This analysis includes comments from both committees.

Climate package. This bill is part of an end-of-session climate package that includes, among other bills, AB 2133 (Quirk) and AB 1279 (Muratsuchi). AB 2133 would accelerate the state's 2030 GHG emission reduction goal from 40% below the 1990 level to 55% below that level. AB 1279 would provide that it is the policy

of the state to achieve net zero GHG emissions by 2045 and to ensure that by 2045, statewide anthropogenic GHG emissions are reduced to at least 85% below the 1990 level.

This bill relates to AB 1279 and its net zero GHG emission goal in that it directs CNRA to determine an ambitious range of targets for natural carbon sequestration, and for nature-based climate solutions, that reduce GHG emissions to support carbon neutrality. While this bill uses the term "carbon neutrality," it does not explicitly define this term. It is not clear if it is intended to have the same meaning as that provided for "net zero greenhouse gas emissions" in AB 1279 or not.

The bill also relates to AB 2133 (and the 2030 GHG emission reduction goal) in that two provisions of this bill pertain specifically to cap-and-trade:

- ARB is required to ensure that all emissions reductions from work towards the targets will not result in double counting; and
- Projects that receive state funding are not eligible to generate credits under any market-based compliance mechanism.

Taken together, these provisions affect which projects may or may not be eligible to generate offsets. Double counting can be described as two programs each separately claiming the same emission reduction as their own. For instance, if an afforestation project planted trees in an effort to claim carbon sequestration under NWL programs, but also sold the carbon stored in those trees as an offset under cap-and-trade, that would be double counting. The project may be meritorious, but if it makes a claim under two programs, then one real ton of carbon could count as two in the state's overall GHG accounting. This is obviously something to be avoided.

The second provision helps ensure that offsets truly represent real and additional emission reductions outside of mandatory programs. Natural carbon sequestration projects are not free. A project could seek funding through the state, particularly under the auspices of this bill or a future natural carbon sequestration grant program. A project could also utilize selling offsets into the cap-and-trade market as a potential form of revenue. While either of these approaches are valid, AB 1757 prevents a project from pursuing both.

Balancing climate goals with other goals for NWLs. As noted above, NWLs' strategies can provide substantial co-benefits, including improving ecosystem health and services. However, it is not a foregone conclusion. Managing primarily

for GHG emissions reductions or carbon sequestration may not always be congruent with other priorities for NWLs, and in some cases could have unintended impacts. For example, reforestation and afforestation can raise several concerns if the actions are not grounded in sound science. Parties risk investing in fast-growing monocultures or planting species that are not appropriate for the area, both of which can have negative impacts on biodiversity and ecosystem health, as well as degrade other ecosystem services.

The bill seeks to address this concern by requiring projects and actions developed to achieve the targets to, among many other directives, enhance carbon sequestration in a manner that maximizes ecological health and biodiversity. A key policy question for the Legislature, however, is whether NWLs should *primarily* be managed for their carbon benefit (with ecosystem health as a co-benefit) or for their overall health and function? In addition, there is likely a distinction to be made regarding priorities for natural vs working lands. The proposed expert advisory committee should be well positioned to advise and weigh in on these issues in order to help the state balance these competing priorities.

Some technical notes.

- *NWLs targets.* The bill directs CNRA to determine targets for natural carbon sequestration that reduce GHG emissions. Generally, an action can influence the rate of sequestration *or* influence emissions, by either avoiding or reducing (or releasing) emissions. This bill may muddy some of the nuances between the two in the target setting.
- *Permanence of storage.* This bill defines "natural carbon sequestration" to mean actions that are undertaken on NWLs to remove and provide storage of atmospheric GHGs in vegetation and soils. The definition does not require a minimum duration of storage, leaving the issue to the Administration to decide. This is important as NWLs typically do not provide permanent storage and different projects can yield different storage times that also can be susceptible to early reversal. This is another issue that the proposed expert advisory committee could weigh in on.
- *Future action and accountability.* The bill directs CNRA to review and update the *Natural and Working Lands Climate Smart Strategy* once to support achievement of the bill's targets. There may well be benefit to periodic updates of this strategy to allow for review and course corrections. Also, much of the information in this update would be useful to include in CNRA's biennial post of progress on its website.

Related/Prior Legislation

AB 2649 (C. Garcia, 2022) would have set goals for natural carbon sequestration, as defined, in California. *(This bill was held on the suspense file in the Senate Appropriations Committee.)*

SB 27 (Skinner, Chapter 237, Statutes of 2021) directed CNRA to establish the Natural and Working Lands Climate Smart Strategy.

AB 284 (R. Rivas, 2021) would have required ARB to identify a 2045 climate goal, with interim milestones, for the state's NWLs to sequester carbon and reduce GHG emissions. *(This bill is on the inactive file on the Senate Floor.)*

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

SUPPORT: (Verified 08/30/22)

California Association of Resource Conservation Districts (co-source)
Carbon Cycle Institute (co-source)
The Climate Center (co-source)
The Pew Charitable Trusts (co-source)
350 Bay Area Action
350 Silicon Valley
A Cleaner Greener East LA
American Farmland Trust
Amigos De Los Rios
Angelenos for Trees
Audubon Canyon Ranch
Bay Area Urban Forest Ecosystem Council
California Climate & Agriculture Network
California Council of Land Trusts
California Environmental Justice Alliance
California Environmental Voters
California Farmlink
California Interfaith Power & Light
California Native Plant Society
California Urban Forests Council
Californians Against Waste
Center for Race, Poverty, and the Environment
Center for Regenerative Agriculture
Central Coast Urban Forests Council

CivicWell
Climate Action Now!
Community Alliance with Family Farmers
Community Forest Advisory Committee
Davey Resource Group
Defenders of Wildlife
Earth Team
Ecological Farming Association
Endangered Habitats League
Environment California
Environmental Defense Fund
Fibershed
Growing Together
Hills for Everyone
Inland Urban Forest Council
International Society of Arboriculture, West Coast Chapter
Joint Venture Silicon Valley
Let's Green CA!
Little Manila Rising
Long Beach Alliance for Clean Energy
Los Angeles Beautification Team
Los Angeles/Orange County Regional Urban Forest Council
Lumber Cycle
Morongo Basin Conservation Association
North East Trees
Occidental Arts and Ecology Center
Pacific Forest Trust
Padres Pioneros / Parent Pioneers
Physicians for Social Responsibility - Los Angeles
Planting Justice
Redwood Hill Farm
Roseville Urban Forest Foundation
Sacramento Tree Foundation
Sacramento Urban Forest Council
San Diego Regional Urban Forests Council
San Francisco Bay Physicians for Social Responsibility
San Joaquin Urban Forest Council
Santa Clara Valley Audubon Society
Santa Clara Valley Open Space Authority
Save Our Forest/Fallbrook Land Conservancy

St. Vincent's Hill Neighborhood Coalition
Straus Family Creamery
Street Tree Seminar
Sunflower Alliance
Sustainable Agriculture Education
Sustainable Claremont
Terraverde Energy
The Hobo Wine Company
The Tree Pledge
Tree Davis
Tree Fresno
Tree Partners Foundation
TreePeople
TreePeople Land Trust
Urban Ecos
Watsonville Wetlands Watch
Wild Farm Alliance
Woodland Tree Foundation
Your Children's Trees
Zero Foodprint

OPPOSITION: (Verified 08/30/22)

Agricultural Council of California
Agricultural Energy Consumers Association
American Pistachio Growers
California Association of Winegrape Growers
California Chamber of Commerce
California Cotton Ginners & Growers Association
California Farm Bureau Federation
California Fresh Fruit Association
California Pear Growers Association
California Walnut Commission
Western Agricultural Processors Association
Western Growers Association
Western Plant Health Association

ARGUMENTS IN SUPPORT: According to the author, "As the climate deteriorates and the world rapidly approaches the 1.5 degree Celsius threshold of dangerous warming, California must re-assume its leadership role in the effort to stop global warming. It is critical that we not only sharply reduce emissions but

also work to remove existing carbon pollution from the atmosphere using natural solutions. Recent research has shown that California's working lands have the ability to sequester up to 100 million metric tons of carbon dioxide per year. AB 1757 takes action on these insights by requiring noted state departments and agencies along with an expert advisory committee to determine an ambitious range of targets for natural carbon sequestration and nature-based climate solutions. Beyond providing key climate benefits, the targets established will also help increase water retention and soil health, thereby increasing California's drought resilience and food security. In doing so, the state will utilize a time-tested strategy of using ambitious statutory targets to drive climate action across the public and private sectors, as was seen with the Renewable Portfolio Standard and the state's clean vehicle statutes and regulations. These landmark policies have been emulated by numerous jurisdictions, demonstrating how California has led in the past and showing that California can lead again through the enactment of this critical measure."

ARGUMENTS IN OPPOSITION: According to a coalition of agricultural and business interests in opposition, "While all modeling under AB 32 and the Scoping Plan must consider economic and technological feasibility and avoid leakage, these conditions are not required in AB 1757. Under this bill, CNRA could develop targets based on technologies that are not accessible for most farmers and costs that cannot be sustained... This will invariably lead to leakage, pushing food production further out of state, and increase the contraction of the farm economy, leading to less small, diversified farms…"

"Additionally, as critical as the references to economic and technological feasibility, is the need for AB 1757 to include an explicit reference that any policies or programs to achieve the stated climate goal are *voluntary*…"

"Under AB 1757, CNRA shall convene an expert committee to inform and advise state agencies on the climate targets, strategies, and recommendations to overcome barriers to implementation. While the bill is explicit to include technical assistance providers, tribal and environmental justice representatives on this committee, it ironically does not provide even one position for a farmer or rancher... Without providing a seat at the table, AB 1757 provides no avenue for genuine engagement."

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8/30/22 21:09:42

****** 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

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8/26/22 15:36:16

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

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 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 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 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 ******

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THIRD READING

Bill No: AB 1897
Author: Boerner Horvath (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

PRIOR VOTES NOT RELEVANT

SENATE ENVIRONMENTAL QUAL. COMMITTEE: 7-0, 8/30/22 (Pursuant to Senate Rule 29.10)
AYES: Allen, Bates, Dahle, Gonzalez, Skinner, Stern, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/30/22
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SUBJECT: Solid waste: reporting, packaging, and plastic food service ware

SOURCE: Author

DIGEST: This bill requires the producer advisory board that is established pursuant to the Plastic Pollution Prevention and Packaging Producer Responsibility Act (Act) to offer a recommendation for resolution if the advisory board determines that specific actions taken pursuant to the Act are disrupting or otherwise adversely affecting the sustained operation or commercial viability of solid waste collection programs, solid waste recycling facilities, or composting facilities; and thereafter authorizes the initiation of nonbinding arbitration.

Senate Floor Amendments of 8/25/22 delete the prior version of the bill and insert the current language.

ANALYSIS: Existing law, the Plastic Pollution Prevention and Packaging Producer Responsibility Act:

1) Requires producers of certain single-use packaging and plastic single-use food service ware (covered material), to source reduce plastic covered material, to ensure that the covered material offered for sale, distributed, or imported into

the state on or after January 1, 2032, is recyclable or compostable, and to ensure that plastic covered material offered for sale, distributed, or imported in or into the state meets specified recycling rates. (Public Resources Code (PRC) §42050)

a) Does not include covered material for which the producer demonstrates to the Department of Resources Recycling and Recovery (CalRecycle) that the covered material, among other criteria, is recycled at a responsible end market. (PRC §42041(e)(2)(H))

b) Requires, to be considered recycled, that covered material be sent to a responsible end market. (PRC §42041(aa)(3)

2) Prohibits a producer from selling, offering for sale, importing, or distributing covered materials in the state unless the producer is approved to participate in a producer responsibility plan of a producer responsibility organization (PRO) for the source reduction, collection, processing, and recycling of covered material.

3) Authorizes CalRecycle to adopt regulations to define guidelines and verification requirements for covered material shipped out of state and exported to other countries for recycling, including processing requirements and contamination standards. (PRC §42041(aa)(4)(A))

4) Establishes a producer responsibility advisory board for the purpose of identifying barriers and solutions to creating a circular economy and advising CalRecycle, producers, and PROs in the implementation of the Act. (PRC §42070)

a) Requires the advisory board to provide initial recommendations regarding key barriers and possible solutions to advance the objectives of increasing recovery of covered materials and decreasing the leakage of plastic into the environment, including key barriers and possible solutions related to available and viable responsible end markets. (PRC §42070(e)(1)(A))

5) Authorizes an affected entity that asserts that specific actions taken to meet the Act's requirements are disrupting or otherwise adversely affecting the sustained operation or commercial viability of solid waste collection programs, solid waste recycling facilities, or composting facilities providing services in accordance with local solid waste handling requirements, to bring the concern and evidence supporting the assertion to the advisory board for discussion and a

preliminary evaluation. (PRC §42070(j))

6) Requires the advisory board, if the advisory board determines that the actions are disrupting or otherwise adversely affecting existing operations, to submit the concern to CalRecycle for further analysis. Requires CalRecycle to analyze the information provided by the advisory board and authorizes CalRecycle to offer a recommendation for resolution. (PRC §42070(j))

7) Defines "responsible end market" as a materials market in which the recycling and recovery of materials or the disposal of contaminants is conducted in a way that benefits the environment and minimizes risks to public health and worker health and safety. Authorizes CalRecycle to adopt regulations to identify responsible end markets and to establish criteria regarding benefits to the environment and minimizes risks to public health and worker health and safety. (PRC §42041(a)(d))

This bill:

1) Redefines "responsible end market" to mean a materials market in which the reclaiming, reconstituting, and end use of covered materials and the disposal of contaminants by the responsible end market is conducted in a way that benefits the environment and minimizes risks to the public health and worker health and safety.

2) Authorizes CalRecycle to adopt regulations to establish criteria for end markets, instead of authorizing CalRecycle to adopt regulations to identify responsible end markets and to establish criteria regarding benefits to the environment and minimizes risks to public health and safety,.

3) Requires the advisory board to offer a recommendation for resolution, instead of requiring the advisory board to submit the concern that specific actions are disrupting or otherwise adversely affecting existing operations to CalRecycle and requiring CalRecycle to make a recommendation,.

4) Allows the initiation of nonbinding arbitration, after the advisory board has offered its recommendation, without prejudice to seeking judicial relief, to determine whether the specific actions are disrupting or otherwise adversely affecting the sustained operation or commercial viability of solid waste collection programs, solid waste recycling facilities, or composting facilities.

Authorizes the arbiter to order actions to remedy the disruption or adverse effect.

Background

1) *The Plastic Pollution Prevention and Packaging Producer Responsibility Act*. The Act, just enacted earlier this year in June, is intended to reduce the amount of single-use packaging and food ware generated in the state and increase the recycling of covered materials by creating an EPR program that requires producers to take responsibility for the materials they produce. The Act was developed over a long stakeholder process that included environmental organizations, producers, local governments, and recycling service providers.

   The Act establishes stringent recycling requirements, increasing from 30% to 65%, and requires plastic covered materials to be source reduced by 25%, by 2032. It establishes extensive requirements, criteria, guidelines, and procedures on producers and the PRO to achieve these goals, and requires CalRecycle to promulgate regulations to implement and enforce the Act.

   The Act also created an advisory board to advise CalRecycle, producers, and PROs in implementing the Act. Among other responsibilities, the advisory board evaluates whether actions to implement the Act are disrupting the operation or commercial viability of solid waste haulers, solid waste recycling facilities, or composting facilities and, if such a finding is made, the advisory board submits the issue to CalRecycle for further analysis and recommendation for resolution.

   This bill amends that process so that the advisory board offers a resolution instead of CalRecycle and provides for the initiation of nonbinding arbitration thereafter.

Comments

Purpose of Bill. According to the author, "AB 1897 contains three minor technical fixes to SB 54, the landmark plastics bill approved in June. The changes include clarified definitions of "recycling" (to specify which entity is responsible for ensuring covered material meets recycling criteria); and of "responsible end markets" (to better articulate the destination where material is reclaimed and reconstituted into new material). Another amendment adds clarifying detail around the dispute resolution process between the Producer Responsibility Organization and local governments. It is critical we make these nominal fixes now as SB 54

requires both producers and CalRecycle to begin work toward implementing the program right away. In fact, the first deadlines come at the end of 2023."

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

According to the Senate Appropriations Committee, CalRecycle estimates that this bill could result in unknown but potentially significant one-time and ongoing costs (General Fund or special fund) in order to adopt regulations that address ambiguities in the bill and to participate in arbitration it would authorize. Some of these costs would be reimbursed by regulated producers.

SUPPORT: (Verified 8/30/22)

Athens Services
California Chamber of Commerce
California Waste & Recycling Association
California Waste Haulers Council
Environmental Justice League
National Stewardship Action Council
Recology
Republic Services - Western Region
Resource Recovery Coalition of California
Waste Connections, Inc.
Waste Management

OPPOSITION: (Verfied 8/30/22)

None received

Prepared by: Genevieve M. Wong / E.Q. / (916) 651-4108
8/30/22 19:57:07

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

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

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 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 ******

Office of Senate Floor Analyses
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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 ******

SENATE RULES COMMITTEE AB 2133
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2133
Author: Quirk (D), et al.
Amended: 8/23/22 in Senate
Vote: 21

PRIOR VOTE NOT RELEVANT

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 4-2, 8/25/22 (Pursuant to Senate Rule 29.10)
AYES: Allen, Gonzalez, Stern, Wieckowski
NOES: Bates, Dahle
NO VOTE RECORDED: Skinner

SENATE APPROPRIATIONS COMMITTEE: 4-2, 8/29/22
AYES: Portantino, Kamlager, Laird, Wieckowski
NOES: Bates, Jones
NO VOTE RECORDED: Bradford

ASSEMBLY FLOOR: Not relevant

SUBJECT: California Global Warming Solutions Act of 2006: emissions limit

SOURCE: Author

DIGEST: This bill increases California's greenhouse gas (GHG) emission reduction target from 40% below the 1990 level to 55% below that level.

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

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

2) Requires ARB to approve a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be

achieved by 2020 (AB 32, 2006) and to ensure that statewide GHGs are reduced to at least 40% below the 1990 level by 2030 (SB 32, 2016).

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

This bill changes the SB 32 emission reduction target for 2030 from a 40% reduction below the 1990 level to a 55% reduction below that level.

Background

1) *California's climate reality.* 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 even moderate GHG reduction pathways.

   Climate change comes with a huge price tag for every government, and California is no exception. To give a sense of scale, California's 2018 wildfires (though only less than half the size of those in 2020) cost $148.5 billion in damages. This amount is roughly half of California's entire 2022-2023 Budget.

   There is a greater human cost to climate change as well. In addition to capital losses, increased cost of resources, and health costs, the impacts of climate change on mental health, food security, displacement and migration, and more are becoming a bigger part of the conversation but are still difficult to quantify.

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

to a climate apartheid scenario in which the wealthy pay to escape overheating, hunger, and conflict, while the rest of the world is left to suffer."

California has long prided itself on its climate leadership. Even when the national climate discourse was still litigating whether the climate was changing or not, California began setting aggressive targets and taking decisive action. In the preface to an August 1989 report from the Senate Office of Research titled *The Greenhouse Effect and Global Climate Change: Doing Something About the Weather* then-President pro Tempore of the Senate David Roberti wrote, "Although a global problem, California bears significant responsibility for the increasing greenhouse effect. With only about 0.6 percent of the world's population, we create about 1.5 percent of the world's carbon dioxide, the major greenhouse gas. As a responsible member of the world community, California must explore ways to reduce its contribution to the global climate change problem." While some of those numbers vary slightly today, the message still rings as true as it did then, 33 years ago.

2) *Governor Newsom's five climate pillars.* In the spirit of upholding California's climate leadership, Governor Newsom has taken steps in the last several weeks to push California further. In a July 22 letter to the chair of ARB, the Governor wrote, "The Legislature has been a leader in establishing California's ambitious climate goals and is our indispensable partner in increasing the ambition of those goals and making them a reality in our state. I am committed to working with the Legislature in the coming weeks to make carbon neutrality state law and to increase our ambition towards our 2030 climate goals."

   Subsequently, the Governor's Office provided five specific proposals to the Legislature on August 12th, of which this is one. In total, the package proposes to (a) accelerate our 2030 GHG emission reduction goal, (b) codify a 2045 carbon neutrality goal, (c) advance the state's clean electricity targets, (d) establish a statewide carbon capture, utilization, and storage (CCUS) framework, and (e) establish protections with setbacks from fossil fuel wells.

   Taken together, these bills would reassert California's climate leadership. In the years since many of California's climate goals have been established, other states and countries have met and surpassed our ambition. As more data is gathered and catastrophes are endured, the world has become more and more acutely aware of the need for drastic action, unprecedented in scale and necessity. While many cities, states, and countries have met the call, much more action is still needed.

All five of these bills bear similarity to legislative proposals from either past or present sessions, each of which substantially increases California's ambition on addressing the causes of climate change. Thus, the committee will likely be familiar with the broader considerations surrounding these proposals, if not yet the specifics included here. While acting upon these proposals will require accelerated legislative action at the end of session, this may make sense given the pressing severity of the climate crisis.

3) *Reducing emissions across the economy.* The AB 32 Climate Change Scoping Plan is an actionable blueprint for aligning action to achieve California's ambitious climate goals. The state achieved its 2020 GHG emissions reductions target of returning to 1990 levels 4 years earlier than mandated by AB 32. The state is currently implementing strategies in the 2017 Scoping Plan Update to further reduce its GHG emissions by 40% below 1990 levels by 2030.

   The pace of emission reductions needed to achieve the 2030 targets is much greater than what was needed for 2020. The 2021 California Green Innovation Index, published by the nonpartisan think tank Next 10, found that total GHG emissions dropped 1.6 percent between 2018 and 2019—the second largest percentage decrease since 2010—but far short of what is needed to achieve the SB 32 goals. California must now sustain a 4.3 percent annual decrease through 2030—a reduction that is more than 2.5 times greater than was achieved in 2019.

   In short, California achieved its 2020 GHG emissions reduction goals early, but appears to not yet be on pace to achieve its current 2030 goal of a further 40% reduction, let alone an even more ambitious goal.

4) *Increasing ambition across the country.* Since 2016, when the Legislature set the SB 32 target of a 40% reduction from 1990 emissions by 2030, other states have followed and even surpassed California. According to the States Climate Action Map maintained by UC Berkeley's California-China Climate Institute, 12 other states have emission reduction goals for 2030. Many of those targets are based on other years' emission levels, but some do also use the same 1990 baseline California, which makes comparison easier.

   Specifically, California, (40%), Maine (45%), Massachusetts (50%), New York (40%), Rhode Island (45%), Vermont (40%) and Washington (45%) all have GHG emission reduction goals for 2030 emissions below a 1990 baseline. No state has a 2030 emission reduction goal higher than 50%, as this bill proposes.

5) *The Scoping Plan and 2030.* Serving as an important roadmap towards the 2020 and 2030 goals, ARB's AB/SB 32 Scoping Plan is updated every five years. This document charted a path to the 2020 goals, and the first post-2020 Scoping Plan Update is currently nearing completion. This Update focuses primarily on achieving carbon neutrality by 2045, a goal established by Executive Order B-55-18, though it does briefly mention complying with SB 32 and achieving a 40% reduction by 2030 as well.

   For the draft Scoping Plan Update, released in May of 2022, ARB modeled four scenarios of potential policy action and compared them to a reference scenario, which modeled emissions given no further policy changes and without the inclusion of cap-and-trade. The Proposed Scenario envisages California making ample use of engineered carbon removal (as well as nature-based carbon removal) alongside a broad portfolio of existing and emerging fossil fuel alternatives and clean technologies to achieve net-zero emissions by 2045. All four scenarios contemplated achieved the SB 32 2030 emission reduction goals, and the reference scenario fell short.

Comments

1) *Purpose of Bill.* According to the author, "The passage of AB 32 (Pavley), the California Global Warming Solutions Act of 2006, marked a watershed moment in California's history. By requiring in law a sharp reduction of greenhouse gas (GHG) emissions, California set the stage for its transition to a sustainable, low-carbon future. AB 32 requires California to reduce its GHG emissions to 1990 levels by 2020 and to ensure that statewide greenhouse gas emissions are reduced to at least 40% below the 1990 level by no later than 2030. The United Nations Framework Convention on Climate Change (UNFCCC) emphasized that the global emissions need to be halved by 2030 to avoid the most catastrophic impacts of climate change. Following the guidance of the UNFCCC, this bill would require the California Air Resources Board (CARB) to ensure that statewide greenhouse gas emissions are reduced to at least 55% below the 1990 level by no later than 2030."

2) *So where do we stand?* As reported in the May 2022 draft of the Scoping Plan Update, the Proposed Scenario should achieve approximately 47% emission reductions from the 1990 level in 2030. This would be sufficient for achieving the SB 32 goal of a 40% reduction, but would be insufficient to reach the 55% reduction proposed in this bill.

   While there is potential for this gap to be closed by cap-and-trade, it is undoubtedly true that the proposed scenario was initially developed and

modeled with a 40% by 2030 target in mind, not a 55% one. While it is presently unclear how much time and effort it would take to model one or more scenarios that achieve a 55% reduction, it seems likely to be a substantial undertaking.

3) *Measure twice, cut once*. The value of the Scoping Plan process cannot be understated. The policy, technology, and behavioral changes needed to stave off the worst effects of climate change are big and happen slowly. Thus, those decisions must be made well in advance, with the best possible forecasts and information available to policymakers. With the Scoping Plan being updated every five years, we will not get another chance to bring this robust process to bear until 2027, at which point it will be too late to make significant changes before 2030.

   Currently, ARB is reviewing and editing the draft 2022 Scoping Plan based on extensive public feedback and stakeholder engagement. Per AB 32, the final Scoping Plan Update must be released by five years from the release of the previous update. Absent an urgency clause, this bill would come into force on January 1, 2023. This creates something of a conundrum.

   Should ARB release the 2022 Scoping Plan Update on time without the 55% reduction target, perhaps only including it in the next Scoping Plan Update? Surely not, since, if passed and signed into law, the Governor and Legislature will have stated their clear intent to increase the ambition of the state's 2030 targets. We are already behind schedule to reach our current 2030 goals; postponing progress towards an even more stringent goal would be setting the state up for failure.

   Should ARB quickly tweak and amend the proposed scenario in the Scoping Plan Update to increase the estimated 47% reductions by 2030 to the proposed 55%? Possibly, though this solution creates new problems. The Scoping Plan Update has gone through years of public participation and robust analysis, and while it may be technically possible to make the numbers work in the next four months, any proposed or amended scenario will be hard-pressed to receive a comparable level of scrutiny and review as we have come to expect from ARB's Scoping Plan Updates.

   While it may be difficult for ARB to adjust the Scoping Plan in time given the scale of the change and the fact the Update is nearly complete, putting California on the right path to meet our goals as early as possible is of tantamount importance. Setting a target without also charting a well-reasoned, realistic, and thoughtful approach to reaching it makes it more likely for

California to fail at doing so. Increasing the ambition of the state's 2030 GHG emission reduction goals from 40% to 55% is significant; it would once more put California in the lead as the state with the most ambitious emission reduction goals. *Actually achieving* that goal will be considerably more difficult and immensely more impactful.

4) *ARB letter of 8/29/22*. In response to direction from the Governor, ARB Chair Liane Randolph sent him a letter further describing the emissions trajectory and economic considerations of the Scoping Plan, particularly in light of further increased ambition since the draft came out in May. That letter, in part, stated:

> In choosing the Proposed Scenario, CARB screened the scenarios to ensure they meet the goal laid out in Executive Order B-55-181 to achieve carbon neutrality no later than 2045. CARB staff also considered affordability to ensure that the transition to a carbon neutral future is inclusive and accessible for all Californians. CARB is also required by AB 322 to minimize emissions leakage – where emissions and goods and energy production move out of state. Leakage can give the appearance that we've reduced emissions under our accounting, even if in reality activities have increased out of state to meet our ongoing demand for goods and energy. Our goal has always been to develop scalable and exportable programs that other jurisdictions can implement and use to reduce emissions within their borders. California going to carbon neutrality will not shield us from climate impacts unless we minimize emissions leakage and other regions also take action to reduce their GHGs.
>
> …While the Draft 2022 Scoping Plan Update and the Proposed Scenario represent our most ambitious effort to-date to cut GHG emissions in California, I want to recognize that this is still a draft plan. Based on direction from you, we will be updating the draft before the end of the year to include the following: [offshore wind planning goal, climate-ready and –friendly home targets, aviation clean fuel standard, more stringent Low Carbon Fuel Standard, and carbon removal targets]. In addition, the revised Scoping Plan will include changes due to Board direction from our June hearing, including, but not limited to, increasing the vehicle miles traveled reduction target. While the staff recommended Proposed Scenario from the May Scoping Plan draft achieves emission reductions of 46.8 percent below 1990 levels by 2030, the preliminary modeling conducted as a result of the increased ambition from your direction and that of the Board indicate increased emission reductions of almost 50 percent below 1990 levels by 2030.

In light of this letter, the proposed adjustment to the state's emission reduction goals appears to be much less drastic than it may initially appear. While AB 2133 will still represent increased ambition—even beyond that of the updated Scoping Plan draft—it is seemingly a matter of a roughly 5% increase, rather than a 15% increase. Whether decreasing emissions by 40% or 55%, achieving these targets by 2030 will require rapid and far-reaching changes to all aspects of our economy. However daunting that may be, the science suggests the consequences of inaction would be far more dire.

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

According to the Senate Appropriations Committee:

- ARB estimates one-time costs of $600,000 (Cost of Implementation Account [COIA]) for a contract for scenario modeling.

- Unknown potential ongoing costs, possibly in the millions of dollars annually until the 2030 deadline (Cost of Implementation Account [COIA]), for ARB to, as part of its regular process for updating the scoping plan, ensure that future updates identify strategies and recommend measures to achieve a 55% target by 2030. Given the current status and timing of the scoping plan update process, it is likely that ARB would need to take additional steps outside of the regular updating process to provide needed planning and analysis for reaching a 2030 target. Expeditious publication of an update with a 55% target would maximize California's ability to act on the plan and be the most likely to produce a cost-effective path forward. ARB would likely incur significant costs to revise its current draft update or to develop an additional update to reflect the 55% target.

- Unknown costs, likely in the billions of dollars total over several years until 2030 (Greenhouse Gas Reduction Fund [GGRF], COI, other special funds, and General Fund), for additional state spending on California Climate Investment (CCI) and other state programs that reduce GHGs to meet a more ambitious target.

- Potential ongoing savings of an unknown amount (General Fund and other funds) due to lessened or avoided state costs associated with carbon emissions and air pollution. For example, the state's health coverage program, Medi-Cal, could realize savings if additional GHG reductions lower its treatment costs of adverse health impacts linked to emissions.

- To the extent that actions to meet the 55% target in this bill result in higher cap-and-trade allowance prices, both state costs and revenues could increase. How

heavily ARB would rely on cap-and-trade versus other policies to achieve this target is unknown. However, should ARB utilize the cap-and-trade program, more ambitious reductions could decrease the number of allowances sold relative to sales under the existing target. Consequently, allowance prices might go up. This would have two fiscal effects:

- Unknown potential revenue impacts (GGRF) from both increases and decreases in state auction proceeds. Fewer allowances sold would decrease revenue, but higher allowance prices would increase it. Any changes in actual revenues would depend on the net effect of these countervailing forces.

- Unknown costs (various funds) to the state as an energy ratepayer. An increase in allowance prices would likely raise statewide energy prices and could lead to rate increases in the medium-term until 2030. The State of California is a natural gas and electrical customer, purchasing roughly one percent of the state's electricity and four percent of its natural gas. As such, the state incurs costs when rates increase. However, identifying an amount attributable to this bill is not feasible given the number and scale of overlapping climate efforts within the energy sector.

SUPPORT: (Verified 8/29/22)

California Association of Resource Conservation Districts
California Council of Land Trusts
California Environmental Voters
CALPIRG
CivicWell
Earthjustice
Elders Climate Action, NorCal and SoCal Chapters
Environment California
Environmental Defense Fund
NextGen California
NRDC
Sierra Club California
Silicon Valley Leadership Group
Sonoma County Water Agency
The Climate Center
The Nature Conservancy

OPPOSITION: (Verified 8/29/22)

African-American Farmers of California
Agricultural Council of California
Agricultural Energy Consumers Association
Alameda Chamber & Economic Alliance
American Pistachio Growers
Association of California Egg Farmers
Bakersfield Chamber of Commerce
Bay Area Council
Building Industry Association of Fresno/Madera Counties, Inc.
Building Industry Association of Orange County
Building Industry Association of San Diego County
Building Industry Association of Southern California, Los Angeles & Ventura Chapter
Building Industry Association of the Bay Area
Building Industry Association of Tulare/Kings County, Inc.
Building Owners and Managers Association of California
California Agricultural Aircraft Association
California Apple Commission
California Association of Wheat Growers
California Association of Winegrape Growers
California Bean Shippers Association
California Blueberry Association
California Blueberry Commission
California Building Industry Association
California Building Industry Association of Southern California
California Business Properties Association
California Cement Manufacturers Environmental Coalition
California Chamber of Commerce
California Citrus Mutual
California Cotton Ginners & Growers Association
California Farm Bureau Federation
California Fresh Fruit Association
California Fuels and Convenience Alliance
California Grain and Feed Association
California Hispanic Chamber of Commerce
California Independent Petroleum Association
California League of Food Producers
California Manufacturers and Technology Association
California Municipal Utilities Association

California Pear Growers Association
California Pool & Spa Association
California Poultry Federation
California Seed Association
California Small Business Alliance
California State Council of Laborers
California State Floral Association
California Strawberry Commission
California Tomato Growers Association
California Walnut Commission
California Warehouse Association
Carlsbad Chamber of Commerce
Catalina Island Tourism Authority
Chemical Industry Council of California
Chino Valley Chamber of Commerce
Citrus Heights Chamber of Commerce
Coalition for Sustainable Cement Manufacturing and Environment
Coastal Energy Alliance
Commercial Real Estate Development Association, NAIOP of California
Corona Chamber of Commerce
El Dorado County Chamber of Commerce
El Dorado Hills Chamber of Commerce
Elk Grove Chamber of Commerce
Far West Equipment Dealers Association
Folsom Chamber of Commerce
Fresno County Farm Bureau
Garden Grove Chamber of Commerce
Gateway Chambers Alliance
Greater Coachella Valley Chamber of Commerce
Greater Conejo Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Greater Riverside Chambers of Commerce
Greater San Fernando Valley Chamber of Commerce
Harbor Association of Industry & Commerce
Home Builders Association of Kern County
Home Builders Association of the Central Coast
Imperial Valley Regional Chamber of Commerce
Inland Empire Economic Partnership
Institute of Real Estate Management
Kern County Taxpayers Association

LA Canada Flintridge Chamber of Commerce
Lake Elsinore Valley Chamber of Commerce
Lincoln Area Chamber of Commerce
Long Beach Area Chamber of Commerce
Los Angeles Area Chamber of Commerce
Los Angeles County Business Federation
Murrieta Wildomar Chamber of Commerce
NAIOP of California
National Federation of Independent Business
Nisei Farmers League
North State Building Industry Association
Norwalk Chamber of Commerce
Oceanside Chamber of Commerce
Olive Growers Council of California
Orange County Business Council
Orange County Hispanic Chamber of Commerce
Pacific Coast Renderers Association
Pacific Egg and Poultry Association
Palos Verdes Peninsula Chamber of Commerce
Rancho Cordova Area Chamber of Commerce
Rancho Cucamonga Chamber of Commerce
Redondo Beach Chamber of Commerce
Rocklin Area Chamber of Commerce
Roseville Area Chamber of Commerce
San Pedro Chamber of Commerce
Santa Clarita Valley Chamber of Commerce
Santa Maria Valley Chamber of Commerce
Santee Chamber of Commerce
South Bay Association of Chambers of Commerce
Southwest California Legislative Council
Specialty Equipment Market Association
State Building & Construction Trades Council of California
Sustainable Agriculture & Energy of Monterey County
Torrance Area Chamber of Commerce
Tri County Chamber Alliance
Tulare Chamber of Commerce
United Chamber Advocacy Network
Valley Industry & Commerce Association
Ventura County Coalition of Labor, Agriculture and Business
Walnut Creek Chamber of Commerce & Visitors Bureau

West Ventura County Business Alliance
Western Agricultural Processors Association
Western Independent Refiners Association
Western Propane Gas Association
Western States Petroleum Association
Wine Institute
Yuba Sutter Chamber of Commerce

ARGUMENTS IN SUPPORT: According to a coalition of six environmental groups, "The Intergovernmental Panel on Climate Change has found that the world could exceed the 1.5 degree Celsius threshold of dangerous warming as early as 2030, meaning that ambitious action in the current decade is imperative if California is to do its part to address global climate change.

"Reducing greenhouse gas emissions now decreases the cumulative climate pollution in the atmosphere; reducing the build-up of greenhouse gases in the atmosphere is what matters for curbing the dangerous impacts of climate change. This is why near-term reductions are so essential.

"In addition to the climate imperative of near-term ambition, a 55% reduction goal is still achievable while also increasing our commitment to fighting climate change. The draft Scoping Plan from the California Air Resources Board finds the state can achieve 46.7% reductions below 1990 levels by 2030. Coupled with the newly-adopted Inflation Reduction Act from the United States Congress, California could already be looking at 50% reductions below 1990 levels. Therefore, to maintain our role as a climate leader we as a state should continue to raise the bar on ambition to an achievable 55%."

ARGUMENTS IN OPPOSITION: According to the State Building & Construction Trades Council of California, "While necessary and much needed to meet the climate crisis, our state's existing 40% GHG reduction goals are already ambitious to the point where meeting them is proving unlikely, as has been pointed out repeatedly by the administration's own agencies. Speeding up this process without having sufficient clean base-load power online will only exacerbate the weaknesses of our existing power grid, risking a Texas-sized disaster and, potentially, the lives of countless vulnerable Californians.

"Just last year, at the Governor's request, the Building Trades brought five previously and prematurely decommissioned gas-fired power plants back online to ensure that vulnerable Californians could keep the lights on. Policies that serve to increase the burdens on our already struggling power grid without simultaneously creating new forms of production pose an enormous economic, workforce, and

health and human safety risk to every family in California. Prematurely increasing goals will require equally premature reliance on electrification, pricing out working families who cannot afford a new sixty thousand- dollar EV or their electric bill, for that matter. California will be at the whim of other states to produce our power, including states that rely on production from fuels that California prohibits, like coal, and will hurt the tens of thousands of our members who go to work every day to generate and distribute the in-state power that keeps our state operational."

Prepared by: Eric Walters / E.Q. / (916) 651-4108
8/30/22 0:29:07

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

SENATE RULES COMMITTEE AB 2143
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

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 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 ******

Office of Senate Floor Analyses
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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 ******

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 ******

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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 ******

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THIRD READING

Bill No: AB 2317
Author: Ramos (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

SENATE JUDICIARY COMMITTEE: 10-0, 8/29/22 (Pursuant to Senate Rule 29.10)
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Wieckowski, Wiener
NO VOTE RECORDED: Stern

ASSEMBLY FLOOR: 74-0, 5/23/22 - See last page for vote

SUBJECT: Children's psychiatric residential treatment facilities

SOURCE: California Alliance for Child and Family Services

DIGEST: This bill requires the State Department of Health Care Services (DHCS) to license and establish regulations for psychiatric residential treatment facilities (PRTFs) that provide inpatient psychiatric services to individuals under 21 years of age in a nonhospital setting, 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 or wards of the court, as specified. (Welf. & Inst. Code, § 202.)

2) Establishes that the juvenile court, which has jurisdiction over a child who is subject to, or in substantial risk of suffering, abuse or neglect, a child who has committed acts that trigger delinquency jurisdiction rendering the child a ward, and any nonminor dependent, between the age of majority and 21 years, under specified conditions. A nonminor dependent under the jurisdiction of the juvenile court retains their legal decision-making authority as an adult, except as specified (Welf. & Inst. Code, §§ 300, 303, 388(e), 601, 602.)

3) Establishes the California Community Care Facilities Act (CCFA) and requires the California Department of Social Services (CDSS) to administer and license community care facilities providing nonmedical services, including adult residential facilities, short-term residential therapeutic programs (STRTPs), and children's crisis residential programs. (Health & Saf. Code, div. 2, ch. 3, §§ 1500 et seq.)

4) Requires DHCS, in consultation with specified agencies and stakeholders, to establish program standards and procedures for oversight, enforcement, and issuance of children's crisis residential mental health program approvals, including provisional approvals that are effective for a period of less than one year. (Welf. & Inst. Code, § 11462.011(a), (b).)

5) Provides that a children's crisis residential program shall be used only as a diversion to admittance to a psychiatric hospital and that the length of initial authorization for admission to a children's crisis residential program shall be limited to 10 consecutive days. (Welf. & Inst. Code, § 11462.011(c).)

6) Provides, under the Children's Civil Commitment and Mental Health Treatment Act of 1988, for the placement of a minor in a facility designated by a county and approved by DHCS for the 72-hour treatment and evaluation of minors when the minor is, as a result of a mental disorder, a danger to others or themselves or gravely disabled and authorization for voluntary treatment is not available. (Welf. & Inst. Code, §§ 5585.25, 5585.50.)

7) Permits a court to grant the voluntary application of a minor under the jurisdiction of the juvenile court, when the application was made with the advice of counsel and the court is satisfied that the evidence establishes that that the services are in the best interest of the minor. (Welf. & Inst. Code, § 6552.)

This bill:

1) Makes findings and declarations relating to the urgent need to provide alternatives to hospitals for children and youth experiencing severe mental health crises and the need for psychiatric residential facilities (PRTFs).

2) Adds PRTFs to the list of psychiatric care facilities for which DHCS must (1) provide technical assistance and training programs with the input of stakeholders, and (2) develop a system of mandatory, consistent, timely, and publicly accessible data collection regarding the use of seclusion and behavioral restraints, provided that (1) and (2) may be implemented within existing resources or funds are specifically made available for these purposes.

3) Defines a PRTF as a health facility licensed by DHCS that is operated by a public agency or private nonprofit organization that provides inpatient psychiatric services, as described in Subpart D of Title 42 of the Code of Federal Regulations, to individuals under 21 years of age in a nonhospital setting.

4) Establishes requirements for licensure as a PRTF relating to accreditation and compliance with federal and state Medi-Cal and Medicare regulations and other laws and regulations, including complying with provisions requiring certification of the patient for care at the PRTF and recertification at least every 60 days and developing an individual plan of care for each patient within 72 hours after admission that is designed to achieve the patient's discharge from inpatient status at the earliest possible time and based on an individualized diagnostic evaluation.

5) Requires DHCS to set a statewide bed limit for PRTFs based on an analysis of the need for such facilities, and to notify the Legislature when the total number of beds in PRTFs statewide reaches 250 beds, 500 beds, and 750 beds.

6) Requires a PRTF to provide, by July 1 of each year, DHCS with specific data, including the total number of patients admitted, certain demographic and treatment information about the patients served, duration of stay for each patient, and certain information about the use of restraints.

7) Requires DHCS and CDSS, by January 1 of each year, to provide to the Senate and Assembly Committees on Health, Human Services, and Judiciary with a report summarizing the information provided under 6), including certain data provided on a per-facility basis, a per-county basis, and a statewide basis.

8) Requires DHCS, in consultation with CDSS and other stakeholders, to establish regulations for PRTFs.

9) Requires DHCS, on or before June 1, 2027, in consultation with CDSS, to report to the Legislature on the use of PRTFs in the state, including an evaluation of the efficacy of the facilities in treating the mental health of individuals under 21 years of age within and not within the jurisdiction of the juvenile court.

10) Requires a patient being discharged from a PRTF to be provided an aftercare plan that includes, to the extent known, matters including the nature of the illness, follow-up required, medications including side effects and dosing schedules, and the expected course of recovery.

11) Establishes ex parte court procedures for when a parent, guardian, or Indian custodian[1] seeks to admit their child under the jurisdiction of the juvenile court to a PRTF, for when a nonminor dependent under the jurisdiction of the juvenile court has admitted themselves to a PRTF, and for when a child under the jurisdiction of the juvenile court seeks to voluntarily admit themselves to a PRTF under Welfare and Institutions Code section 6552 (Section 6552).

12) Requires the court, for a child or nonminor dependent admitted to a PRTF pursuant to 11), to hold a hearing 60 days after the admission, and every 30 days thereafter, to review the placement in the facility based on the medical necessity of that placement. The court may hold the hearing in tandem with another statutorily required hearing if the timing coincides and may hold more frequent hearings at its discretion.

13) Allows, if the court finds at the hearing under 12) that the parent, child, or nonminor dependent continues to consent, that the child or nonminor dependent continues to suffer from a mental disorder that may be reasonably expected to be cured or ameliorated by treatment at the PRTF, and that there is no other available less restrictive setting to serve the patient's medical need, the court to authorize the continued admission at the PRTF. There is a rebuttable presumption that, if the child or nonminor dependent has been at a PRTF for over 30 days, the facility is not the least restrictive alternative available to meet the patient's need and best interest.

14) Requires the social worker, if the court finds at the hearing under 12) that the parent, child, or nonminor dependent no longer consents, that the child or

[1] Going forward this analysis uses "parent" to refer to a parent, guardian, or Indian custodian.

nonminor dependent no longer suffers from a mental disorder that may reasonably expected to be cured or ameliorated by treatment at the PRTF, or that there is another available less restrictive setting to serve the patient's medical needs, immediately work with the PRTF to arrange for the child's or nonminor dependent's discharge to a different setting with the appropriate services and supports.

15) Requires a county child welfare agency or county probation office, as appropriate, whenever a child or nonminor dependent is discharged due to revocation of consent to admission, within two days of learning of the revocation of consent, to file a petition with the court requesting an order vacating the court's order authorizing the child or nonminor dependent's admission to the PRTF. This provision does not require a court order for the discharge of a child when consent has been withdrawn.

16) Provides that, where a child or nonminor dependent has been admitted to a PRTF pursuant to the consent of a conservator, the court must review the placement at any six-month review hearing and may make any orders necessary to ensure that the child or nonminor dependent is discharged in a timely manner and with all the services and supports necessary for a successful transition to a less restrictive setting. The court may direct the social worker to work with the facility and, where appropriate, with the conservator, to ensure the child or nonminor dependent is receiving all necessary child welfare services and to develop the aftercare plan.

17) Provides that any information filed pursuant to 11)-16) shall not contain information that is privileged or confidential under existing state or federal law or regulation without the appropriate waiver or consent.

18) Adds specifications relating to PRTF licensure and DHCS's oversight authority to the Welfare and Institutions Code, including requiring DHCS to conduct an initial licensing inspection and annual licensing inspection of a PRTF and permitting any officer, employee, or agent of DHCS may inspect a PRTF at any time to investigate compliance, and PRTFs must furnish all information, documentation, and records requested by DHCS.

19) Provides procedures for a PRTF seeking to obtain or renew a license, which is subject to renewal 12 months from the date of issuance.

20) Provides that existing confidentiality provisions relating to medical records do not apply when the records pertain to a patient under the jurisdiction of the juvenile court and the medical records are to be viewed by the patient's social

worker or probation officer to ensure the patient receives all necessary services or referrals to transition from a PRTF to a lower level of care.

21) Provides that existing statutes relating to applications to obtain a license from DHCS to run specified mental health facilities and the provision of community mental health services apply to PRTFs.

22) Modifies the existing procedure by which a minor who is under the jurisdiction of the juvenile court may apply to the court for inpatient or outpatient mental health services to include applications to be admitted to PRTFs.

23) Establishes, for children and nonminor dependents under the jurisdiction of the juvenile court, requirements for a child or nonminor dependent's social worker or probation officer's involvement before, during, and after a child or nonminor dependent's admission to a PRTF, including requiring a plan for placement and what community-based mental health services will be available upon discharge.

24) Incorporates chaptering-out amendments in Section 12 of the bill to avoid a chaptering conflict with AB 2144 (Ramos, 2022).

Comments

This bill would ensure much-needed federal funding for Children's Crisis Residential Programs to provide urgent mental health services to children in crisis. This bill seeks to maximize federal funding for these programs and ensure the availability of these critical services for youth. Not every child in mental health crisis needs to be hospitalized, yet hospitalization remains the only alternative available in California if a child temporarily cannot be safely treated at home or in their community. Alternatives to inpatient hospitalization are essential to both children experiencing a mental health crisis and their families. Children need a calming and therapeutic place near home where they can receive treatment to work through the crisis. Community-based residential mental health crisis programs can provide just that. The primary goal of these services is to stabilize and improve psychological symptoms of distress and to engage individuals in appropriate treatment to address the causes of a crisis. These services are provided in a residential home-like setting, offering the optimum environment for a child to obtain essential therapeutic help.

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

SUPPORT: (Verified 8/29/22)

California Alliance for Child and Family Services (sponsor)
A Greater Hope
Aspiranet
California Association of Alcohol and Drug Program Executives
California Association of Social Rehabilitation Agencies
California Children's Hospital Association
California Children's Trust
California Council of Community Behavioral Health Agencies
Chief Probation Officers of California
Childhelp
Children's Health of Orange County
Children's Receiving Home of Sacramento
County Behavioral Health Directors Association
County Welfare Directors Association of California
Didi Hirsch Mental Health Services
Family Care Network, Inc.
First Tee Silicon Valley
Fred Finch Youth & Family Services
Healthier Kids Foundation
Hillsides
JobTrain
National Alliance on Mental Illness-California
National Association of Social Workers
Pacific Clinics
Pacific Juvenile Justice Center
SAGA Foundation
San Bernardino County Department of Behavioral Health
San Bernardino County Board of Supervisors
San Diego Center for Children
SEIU California
Seneca Family of Agencies
Sierra Vista Child & Family Services
Steinberg Institute
Sycamores
Warrior Canine Connection
Youth Transportation Association

OPPOSITION: (Verified 8/29/22)

Cal Voices
Depression and Bipolar Support Alliance California
Disability Rights California
National Center for Youth Law
National Health Law Program
National Center for Youth Law
Youth Law Center

ARGUMENTS IN SUPPORT: Proponents of the bill argue that PRTFs are necessary to close a gap in mental health care services for children and youth who have Medi-Cal. For example, the National Association of Social Workers – California Chapter argues:

> AB 2317 is aimed at addressing a critical component missing in the continuum of specialty medical services and youth in California – children's crisis residential services. This legislation seeks to add a new licensing category in state statute, the Psychiatric Residential Treatment Facility. This legislation would ensure that counties and their community-based providers have the ability to develop crisis residential programs with an appropriate licensing category, and ensure children and youth can access mental health services that are responsive to their individual needs and strengths in a timely manner. The creation of the licensing category is consistent with Med-Cal Early Periodic Screening Diagnosis and Treatment (EPSDT) Specialty Mental Health Services (SMHS) program standards.
>
> There is no question that a full continuum of care for children and youth is needed, and the lack of a licensing component for children's crisis residential programming is preventing the development of this much-needed program. While crisis residential services are still acute in nature, they are provided in a less restrictive environment, and would be a more appropriate alternative for children who don't necessarily require the level of care that an acute inpatient hospitalization provides.

ARGUMENTS IN OPPOSITION: According to the bill's opponents:

> AB 2317 creates PRTFs which are among the most restrictive secured institutional settings that can be utilized to treat children with mental health conditons using Medicaid funds. For children and youth in foster care, this reliance on Medicaid rather than foster care bypasses the protectons required by the federal Families First Prevention Services Act and the state's Continuum of Care Reform. California does not need to rush to create another treatment facility that removes children from their support networks and costs

tens of millions of dollars every year. Instead, the state must invest in legally required intensive home and community-based mental health services that have been shown to be just as effective but cost only a fraction of PRTFs. Such home and community based services further enable children and use to be treated in the most integrated setting, as required by the Americans With Disabilities Act and affirmed by the landmark United States Supreme Court *Olmstead* decision[2]…

[T]he bill particularly harms children in foster care, who will be placed in these institutions at disproportionate rates and for long periods of time, detrimentally impacting their development and connections. Foster youth have already experienced trauma and instability and will face additional challenged with permanency and transitioning to adulthood if placed in PRTFs, rather than supported in their homes and communities. While recent amendments attempt to provide some checks and balances on the overutilization or length of stay of foster youth in these facilities, it still provides no actual limits.

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: Allison Meredith / JUD. / (916) 651-4113
8/30/22 0:38:34

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

[2] *Olmstead v. L.C.* 527 U.S. 581 (1999).

SENATE RULES COMMITTEE AB 2352
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

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 8/30/22)

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 Department of Finance is opposed to this bill, and indicates that it will result in increased costs to the Managed Care Fund not accounted for in the state budget.

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
8/30/22 13:56:44

****** 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 ******

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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 ******

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: Melissa White/Katie Bonin / TRANS. / (916) 651-4121
8/29/22 9:56:11

****** 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 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 ******

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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 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 2774
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2774
Author: Akilah Weber (D), et al.
Amended: 8/26/22 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.

Senate Floor Amendments of 8/26/22 address chaptering issues with AB 185 (Committee on Budget) and SB 185 (Committee on Budget and Fiscal Review), the budget trailer bills on education.

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; and

   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. This bill's provisions would be subject to an appropriation in the annual Budget Act.

SUPPORT: (Verified 8/26/22)

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 8/26/22)

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
8/29/22 9:10:36

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

Office of Senate Floor Analyses
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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 2910
Office of Senate Floor Analyses
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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) *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 8/26/22)

Bay Area Air Quality Management District

OPPOSITION: (Verified 8/26/22)

California Air Pollution Control Officers Association
California Council for Environmental & Economic Balance
South Coast Air Quality Management District

ARGUMENTS IN SUPPORT: 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."

ARGUMENTS IN OPPOSITION: According to the California Council for Environmental and Economic Balance (CCEEB), "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 18:20:16

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

SENATE RULES COMMITTEE AB 2964
Office of Senate Floor Analyses
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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 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 ******

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THIRD READING

Bill No: ACR 177
Author: Bloom (D) and Ramos (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 14-0, 8/10/22
AYES: Gonzalez, Bates, Allen, Archuleta, Becker, Cortese, Dodd, Limón, McGuire, Min, Newman, Rubio, Skinner, Wieckowski
NO VOTE RECORDED: Dahle, Melendez, Wilk

SENATE APPRORIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 66-0, 6/27/22 - See last page for vote

SUBJECT: Christopher Columbus Transcontinental Highway: removal of designation

SOURCE: City of Los Angeles
County of Los Angeles Board of Supervisors
Los Angeles City/County Native American Commission
University of California Los Angeles

DIGEST: This resolution requests the California Department of Transportation (Caltrans) to remove the "The Christopher Columbus Transcontinental Highway" designation from the portion of Interstate 10 in the state, as well as any signage and markers memorializing that designation.

ANALYSIS: Existing law assigns Caltrans the responsibly of operating and maintaining state highways, including the installation and maintenance of highway signs.

This resolution:

1) Recounts historical actions surrounding the life of Christopher Columbus and the naming of Interstate 10 (I-10) in California.

2) Requests Caltrans to remove the "The Christopher Columbus Transcontinental Highway" designation from the portion of I-10 in California, as well as any signage and markers memorializing that designation, and advise the Federal Highway Administration (FHWA) of the state's action.

3) Resolves that ACR 106 (Chimbole, Resolution Chapter 71, Statutes of 1976), naming the highway, is effectively overturned and reversed.

4) Resolves that if there are any efforts to replace the removed signage, these efforts should involve public input and feedback, including input and participation from the City of Los Angeles, the County of Los Angeles, and the Los Angeles City/County Native American Indian Commission.

5) Requires the Chief Clerk of the Assembly transmit copies of the resolution to the legislatures of the other states that I-10 passes through with a request that they take similar action; and to the Director of Transportation and to the Executive Director of the FHWA.

Background

Interstate 10. I-10 is the southernmost cross-country highway in the Interstate Highway System. I-10 covers nearly 2,500 miles through the states of California, Arizona, New Mexico, Texas, Louisiana, Mississippi, Alabama, and Florida. It is traveled by millions of Americans throughout the year. In 1976, the Legislature approved ACR 106 (Chimbole, Resolution Chapter 71, Statutes of 1976), which designated the portion of I-10 in California as "the Christopher Columbus Transcontinental Highway," as a way to celebrate him as "a distinguished pioneer, revered by millions for his exploits."

Removal of Memorial Designations and Signage. In September 2020, the California Natural Resources Agency, the California Department of State Parks, and Caltrans announced a series of actions the agencies will take to begin to address discriminatory names and inequities in the state's parks and transportation system by identifying and redressing discriminatory names of features attached. The announcement states that, "the moves come in the wake of a national conversation about the names of geographic features, markers and statues affiliated with the Civil War, genocide of Native Americans and other remnants of institutionalized discrimination." Specifically speaking to the transportation system, the announcement states, "Caltrans will carry out a detailed review of all named assets located on the state transportation system and develop a proposal identifying those to be renamed or rescinded."

ACR 177 requests Caltrans to remove the "The Christopher Columbus Transcontinental Highway" designation from the portion of I-10 in California, as well as any signage and markers memorializing that designation. Additionally, this resolution states that if there are any efforts to replace the removed signage, these efforts should involve public input and feedback, including input and participation from the City of Los Angeles, the County of Los Angeles, and the Los Angeles City/County Native American Indian Commission.

According to Caltrans, this is the first Assembly Concurrent Resolution requiring the removal of a highway sign. It should also be noted that, according to Caltrans, "The Christopher Columbus Transcontinental Highway" signage on I-10 was stolen before the introduction of this resolution, and Caltrans does not plan to replace the sign.

Committee policy. The Senate Transportation Committee has adopted a policy regarding the naming of state highways or structures. Under the policy, the Committee will consider only those resolutions that meet all of the following criteria:

1) The person being honored must have provided extraordinary public service or some exemplary contribution to the public good and have a connection to the community where the highway or structure is located.

2) The person being honored must be deceased.

3) The naming must be done without cost to the state. Costs for signs and plaques must be paid by local or private sources.

4) The author or co-author of the resolution must represent the district in which the facility is located, and the resolution must identify the specific highway segment or structure being named.

5) The segment of highway being named must not exceed five miles in length.

6) The proposed designation must reflect a community consensus and be without local opposition.

7) The proposed designation may not supersede an existing designation unless the sponsor can document that a good faith effort has uncovered no opposition to rescinding the prior designation.

Comments

Purpose of the resolution. According to the author, "In recent years, the State Legislature has taken a number of positive actions to acknowledge past transgressions against Indigenous peoples, correct the historical record, and re-evaluate the priorities and values that govern the decisions to honor and promote the memory of historical individuals for their leadership, courage, and good works. ACR 177 is another step to promote increased cultural understanding sensitivity and empathy throughout the state for Indigenous people, especially for the approximately 160,000 Native Americans who reside in Los Angeles County, and those who live in regions along the entire route of Interstate 10 in California."

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

SUPPORT: (Verified 8/25/22)

City of Los Angeles (co-source)
County of Los Angeles Board of Supervisors (co-source)
Los Angeles City/County Native American Commission (co-source)
University of California Los Angeles (co-source)
Two individuals

OPPOSITION: (Verified 8/25/22)

One individual

ARGUMENTS IN SUPPORT: According to the City of Los Angeles (City), one of the sponsors of this resolution, "continuing to honor an individual who represents a source of violence and historical trauma for Indigenous Peoples demonstrates insensitivity, a lack of empathy and denial of the truth, the City's Sponsored Resolution ACR 177 calls on the California Department of Transportation to remove the 'Christopher Columbus' designation on the California segment of the Interstate-10, reversing a previous legislative resolution adopted in 1976."

"The City strongly believes in supporting efforts to name public facilities that promote respect, peace and healing, and the revitalization of Indigenous languages and cultures. Actions previously taken by the City to promote such cultural sensitivity include establishing Indigenous Peoples Day as a legal City holiday, and removing the statue of Christopher Columbus from Grand Park on November 10th, 2018."

ASSEMBLY FLOOR: 66-0, 6/27/22
AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Choi, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bigelow, Chen, Cooley, Fong, Gray, Grayson, Holden, Kiley, Lackey, Nguyen, Patterson, Robert Rivas, Seyarto, Voepel

Prepared by: Melissa White / TRANS. / (916) 651-4121
8/30/22 19:57:09

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